

Less than

Gay

A
CITIZENS'
REPORT ON
THE STATUS
OF
HOMOSEXUALITY
IN
INDIA

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AIDS BHEDBHAV VIRODHI ANDOLAN
(AIDS Anti-Discrimination Movement)

2nd Edition, November 2022

New Delhi, India

With an introduction reminiscing ABVA's struggle for gay rights by
Shobha Aggarwal

PRAISE FOR LESS THAN GAY/ ABVA

“ ... recall the AIDS Bhedbhav Virodhi Andolan from the early 1990s – first AIDS activist movement in India that published *Less Than Gay* ... The left had been a very timid, puritanical and conventional on the question of sexual orientation and private life for long time and rejected LGBT struggles as petty bourgeois / bourgeois reactionary fashionable behaviour coming from the west.”

Harsh Kapoor, founder and editor of sacw.net, the South Asia Citizen’s Web in ‘Talking Equality To a Conservative Majoritarian Society’, *Mainstream*, VOL LVI No 39 New Delhi 15 September, 2018

“The unexpected stars of the conference were a group from Delhi called AIDS Bhedbhav Virodhi Andolan (ABVA) – the AIDS Anti-Discrimination Movement ... The group staged several loud protests during the conference ... launched a charter of demands calling for ... the establishment of a commission to document all violations of human rights for infected people, and the decriminalisation of homosexuality and prostitution.”

Phyllida Brown covering the 2nd Asia Pacific AIDS conference in ‘Doctors and activists clash over AIDS in Asia’, *New Scientist*, 21 November, 1992.

“As an organisation fighting on AIDS related human rights issues, ABVA is also involved in campaigning for gay rights, homosexuals being particularly vulnerable to victimisation in the prevailing anti-AIDS frenzy.”

Vimal Balasubramanian, ‘Gay Rights in India’, *Economic and Political Weekly*, 3 February, 1996.

“...a freely-distributed exhaustive compendium, *Less than Gay: A Citizens’ Report on the Status of Homosexuality in India*, by the Aids Bhedbhav Virodhi Andolan ... is research material, meticulous, credible... I only wish that *Less than*

Gay had more money to go in for a better production. It is a book for libraries, public and personal.”

Kajal Basu, *India Today*, Jun 15, 1992

“... [ABVA] was a committed, penniless, bedraggled group who were political, angry, seeing discrimination around HIV/AIDS first-hand and seeking to intervene. .. [ABVA] filed for the repeal of Section 377.”

Ashley Tellis, academician and gay rights activist in ‘SC ruling on Sec 377, A wonderful opportunity for a fresh beginning’, *Hindustan Times*, December 12, 2013.

“...*Less than Gay* calls for a recognition of ‘the right to privacy as a fundamental part of the citizen's right to life and liberty, including the right to his or her sexual orientation’ ... The ABVA articulates the right to sexual orientation as a part of the right to privacy. Here, the right to privacy is not about space, but it is fundamentally about bodily autonomy.”

Mayur Suresh lecturer at the School of Law, SOAS University, in ‘The Right to be Public: India’s LGBT Movement Builds an Argument about Privacy’, *Australian Journal of Asian Law*, 2019, Vol 20 No 1, Article 7: 87-10.

“For many familiar with contemporary India’s history of homosexuality, 1992 may be seen as a turning point. In 1992, activists protested against the infamous anti-sodomy law ... This paper ... attempts to encourage one to consider the ways in which the increased political subjectivity of the homosexuals in contemporary India intersect with the historical emergence of the Hindu Right’s ideological hegemony from the 1990s.”

Tan, N. ‘Was 1992 a Turning Point for Homosexuals in Contemporary India?’ *Sexuality & Culture* 23, 142–153 (2019). <https://doi.org/10.1007/s12119-018-9548-9>

“The collective work of ABVA is extremely important for our histories.”

“...the Indian queer movement owes a lot to your vision, imagination and zeal. And we, as queer academics, activists from India have a lot to learn from your efforts over the years.”

Sayan Bhattacharya, PhD Candidate, Feminist Studies, Department of Gender, Women and Sexuality Studies; Fellow, Interdisciplinary Center for the Study of Global Change, University of Minnesota in personal communication via email dated 11 March 2020 and 17 June 2020.

“It was a time of fear, secrecy, mass arrests and clandestine rendezvous for India’s gay community. In 1994, when the group filed the first significant legal challenge to Section 377 in the Delhi High Court, no openly gay person volunteered to testify in the case.”

Shashank Bengali, Parth M.N., ‘These activists helped bring India to the brink of a landmark ruling on gay rights’, *Los Angeles Times*, 10 August, 2018.

“... the AIDS Bhedbhav Virodhi Andolan (ABVA), now a group of elderly people who used to be idealist, Left-leaning youth from the medical, legal, academic, human rights and social work fields. In April 1994, ABVA had filed a 75,000-word petition in the Delhi High Court asking for Section 377, which criminalises homosexuality, to be struck down.”

Dipanita Nath, ‘Rainbow at the end of the road: Queer resistance to Section 377’, *The Indian Express*, 5 August, 2018.

“My association with ABVA changed my stance towards the pain and sufferings of the minority groups, especially homosexuals and HIV positive people. I thank ABVA for the initial discussions which helped increase my sensitivity towards the issue and motivated me to work on this topic.”

Sherry Joseph, author of the book *Social Work Practice and Men Who Have Sex With Men* Sage Publishing India, June 2005.

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Published and edited by: P. S. Sahni, member ABVA

AIDS Bhedbhav Virodhi Andolan (ABVA) is a non-funded, non-party organization established in 1988

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Blog: <http://aidsbhedbhavvirodhiandolan.blogspot.com/>

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EDITOR'S NOTE

Within a year after the release of *Less than Gay* in November 1991 at a Press Conference held at the Press Club of India, New Delhi there have been constant efforts to steal/hijack/subvert this work of AIDS Bhedbhav Virodhi Andolan (ABVA) Collective co-authored by seven ABVA members. This has already been documented in an earlier compilation titled *ABVA Collective's Work Stolen/Hijacked/Subverted*¹ (40 pages) and released on 26 September, 2021.

After the Supreme Court of India's judgement of 2018 we felt the time was ripe to put in place and perspective an overview of developments around gay sex ever since *Less than Gay* was published. Hopefully this could help researchers/ academicians/ activists/ authors to be acquainted with the lesser – though highly significant – aspect of ABVA's struggle. We at ABVA are compelled to share a brief account about the formation and evolution of ABVA and its members who have worked selflessly and relentlessly against all odds for decades in a non-funded organization. A few photographs of ABVA members in action are also being shared and would provide a touch of nostalgia. A draft version of this document was earlier uploaded on ABVA's blog for suggestions/comments in November 2021. The final version is now being released incorporating the same.

Shobha Aggarwal, advocate and member ABVA, ploughed through the records in ABVA's archives to prepare the Introduction running into a long essay of 18,360 words. Labouring hard like a lonely, long distance runner – and away from limelight – she has penned the Introduction to the 2nd Edition of *Less than Gay*. The essay uses a no-holds barred approach but with malice towards none. Being an independent legal researcher she was best suited for this venture. The journey of going down memory lane inevitably entailed emotional upheavals at the death of six ABVA members over the decades. These were faced stoically.

ABVA's blog at <http://aidsbhedbhavvirodhiandolan.blogspot.com/> was conceptualized and came into existence primarily due to the untiring efforts of Shobha. Over a period of around a decade she published ABVA Reports on the blog and these have been made freely available to anyone concerned on the issue. Besides ABVA's Press Releases/ Articles/ Communications etc. were posted on the blog. Since ABVA had not got into the digital mode till 2014-2015 and all its Citizens' Reports were in hard copy, these had to be re-done on the computer or scanned and corrections incorporated.

THE WAY FORWARD

The Supreme Court enabled partial repeal of Section 377, Indian Penal Code (adult consensual homosexual act in the privacy of one's home) in September 2018 has been likened by ABVA to the 'Home Rule'. ABVA has always striven for full repeal of Section 377 to wit a revolution and full freedom to the sexual minorities. Our efforts continue.

P. S. Sahni
Member, ABVA
November 2022
New Delhi, India

ABVA MEMBERS – THEIR STRUGGLES AND COMMITMENTS

A brief sketch of ABVA members who had joined the organization during different periods of time is in order; it would be obvious that ABVA evolved over the years and did not get formed one fine day as registered societies or funded groups come into existence. In fact ABVA got christened as such in 1990 much after the release of its very first Citizens' Report *Women & AIDS – Denial and Blame*.²

Those who had joined ABVA included Manoj Pande, Dr. Puneet Bedi, Shanta ji, Arun Bhandhari, Shalini SCN, Lalitha S.A., Dr. J.P. Jain, Dr. Mathew Varghese, Dr. P.S. Sahni, Jagdish Bhardwaje, Yashwant, Shobha Aggarwal, J.S. Kohli, Manjit Singh. Some of these activists had known each other for decades/ several years and had worked together in different campaigns and movements prior to joining ABVA.

- In 1983 Shanta ji, Yashwant and Dr. P.S. Sahni were members of the Jhuggi Jhompri Niwasi Adhikar Samiti (JJNAS). This organization had dozens of constituent members – individuals/ organizations based in Delhi and Calcutta (now Kolkata). JJNAS was opposed to slum demolitions without rehabilitation of the uprooted people. In 1984 several draconian laws were passed in Parliament to target slum dwellers, treating the latter as criminals and to uproot them at the whims and fancies of those in power. JJNAS opposed these laws; organized a few protest marches; demanded ration cards and voter identity cards for slum dwellers. When one slum dweller, Wilson was tortured to death in a police station on the alleged charge of stealing a ceiling fan, cases were filed not only in the trial court against the policemen involved but also in the Supreme Court.

- Dr. J.P. Jain, Dr. Puneet Bedi (Gynecologist), Dr. Mathew Varghese (Orthopedic Surgeon), Dr. P.S. Sahni (Orthopedic Surgeon) had studied at Maulana Azad Medical College and associated hospitals, New Delhi during the late 60s and 70s. The latter three doctors were in the forefront of the two month long agitation launched by the Junior Doctors Federation (JDF) of Delhi in 1980 resulting in the strike affecting all the five major public hospitals in Delhi. The strike was called off after an agreement signed between JDF and the Union Ministry of Health and Family Welfare. The demands pertained to pay raise, working hours and future job prospects. During the follow-up of the strike 37 of the two thousand odd striking doctors led by Dr. P.S. Sahni were sentenced to 28 days imprisonment at Tihar Jail, Delhi.
- Dr. Puneet Bedi is a rare gynecologist who never performs ultrasonography for sex determination; he never does any unnecessary Caesarian operation, opting to patiently hold on for hours, nay day(s), for normal delivery to take place. Dr. Mathew Varghese's commitment to the needy patients is legendary; he spends half his earnings on poor patients. He has earned the epithet of "one among five people from around the world who were real life heroes."
- Shanta ji, Dr. J.P. Jain, Dr. P.S. Sahni, Manjit Singh had worked together amongst the victims of anti-Sikh violence in 1984 in various relief camps set up in Delhi. As per Government reports at least 3000 Sikhs were burnt alive in Delhi itself. Manjit Singh, a Sikh by faith, had to have his hair shorn off to escape being burnt alive; within a few days of this violence Manjit Singh had started doing relief work. Manjit Singh was a communist by ideology; though a man of limited means he had a library of progressive

literature at his humble house. He practically had all the issues of weekly magazine, *Mainstream* since its inception!

- For 26 months the work undertaken by these four activists involved setting up of medical relief centers, filing of compensation applications; petitions to various authorities; a series of protest actions e.g. rallies to the office of Lt. Governor of Delhi; Delhi Development Authority; Boat Club etc.
- Shanta ji as the senior most ABVA member was a source of strength for all ABVA members. She had courageously battled both her personal and political struggles. Dr. J.P. Jain had left his secure and well paid government job to do voluntary work amongst victims of 1984 violence.
- During the 1988 Cholera epidemic in Delhi Arun Bhandari, Dr. J.P. Jain, Dr. P.S. Sahni were part of the 11 member fact finding team, Nagrik Mahamari Janch Samiti, which brought out a Citizens' Report, *Crime Goes Unpunished*. The report became part of the case filed in the Supreme Court demanding fixing of the responsibility on the guilty officials responsible for the water contamination supplied through shallow 'pumps of Death'! A large protest demonstration was organized outside the Maulana Azad Medical College, New Delhi, followed by a public meeting at Delhi's Sapru House. Through Arun Bhandari ABVA's reports would get distributed to other parts of the country whenever Arun – through his parent organization Ankur – was travelling for a workshop, meeting organized by other social groups outside Delhi; Arun was equally at ease in mobilizing people from *Bastis* for protests organized by ABVA. He would ensure that the participating people were well versed with the issue at hand.
- From 1980 onwards Jagdish Bhardwaje, a professional blood donor (who sold his blood for a living) had organized the poorest of the professional

blood donors in Delhi for a better deal at the hands of the private and government blood banks. Jagdish Bhardwaje, coming from a middle class background, had hit the pavement in 1981 while at the peak of his personal and professional life. He had suffered huge economic losses in his business and had to dispose off his Greater Kailash-II residence and car in a distress sale. His wife left him along with the only son the couple had. He overcame a spell of severe depression and struggled with his life on the pavement at Jama Masjid, Old Delhi. He found himself amongst people who were forced to earn their livelihood by selling their blood. Later he organized them under the banner of professional blood donors and launched a long agitation at Boat Club – the Hyde Park of Delhi – so that they get better remuneration for a bottle of blood! The organization acquired an all India banner. For about two decades Jagdish himself was selling his blood for a living; at times once a day and even thrice a day on occasions.

- In 1990, Jagdish joined ABVA and was actively associated with it for over a decade. A report – *Blood of the Professional*³ – authored by him documents the lives and struggles of professional blood donors in India. In a public interest litigation filed by H.D. Shourie titled *Common Cause vs. Union of India and Others* [Writ Petition (civil) 91 of 1992], the Supreme Court had inter alia banned professional blood donation. Jagdish had filed an intervention application through advocate Laxmi Kant Pandey urging the court to have a rehabilitation policy for professional blood donors in the event the court was likely to ban professional blood donation. Though the judgement delivered on 4 January, 1996 victimised the professional blood donors eventually, Jagdish's application was not even considered.
- Yashwant, himself a young leprosy patient residing in a slum area at Tilak Nagar, New Delhi was instrumental in organizing the inmates of this

colony, Jagat Matha Kusht Ashram. As they were facing discrimination in their own state of Karnataka (mainly district Bijapur) these leprosy patients had shifted to Delhi in the 1970s to earn their livelihood through begging. Dr. P.S. Sahni started working amongst them after leaving his job at All India Institute of Medical Sciences (AIIMS), New Delhi in December, 1983. Yashwant was active in the *panchayat* of leprosy patients. Yashwant organized a number of protest actions including at the then national protest site, Boat Club, New Delhi. During one of their most militant protest actions near the office-cum-residence of the then Lt. Governor of Delhi the police resorted to firing resulting in injuries to many of the protesting leprosy patients and death of one of them. One of the leprosy patients, Govind Ram filed a writ petition in the Supreme Court of India on 19 June, 1985. Mrs Kapila Hingorani, senior advocate argued the case.

- The petitioner, Govind Ram, aged 80 years, suffering from leprosy with crippling deformities was one of the 7000 persons with leprosy in Delhi and earned few rupees by begging and on this account he often found himself in jail after being arrested under the Anti-begging Act. The petitioner resided at jhuggi no. 26 at this Ashram.
- It was submitted that there are 4 million people in India suffering from leprosy; that most of them in Delhi are taken to Remand Home called “Sewa Kutir” at Kingsway Camp which inmates refer to as ‘Danda Kutir’ because of the severe beatings they get there. The petition pointed out that these people suffer from a number of disabilities in the matter of employment, elections, and travel under the laws and more in practice as they are treated worse than untouchables. Moreover with the repeal of the Indian Lepers’ Act, 1898 in Delhi and a few other states, alternate means of rehabilitation and their medical treatment have not been made.

- P.N. Bhagwati the then Chief Justice of India and Justice V. Khaliq passed an order on 9 September, 1985 asking Union Government and the Law Commission to provide suitable legislation for the treatment and rehabilitation of leprosy patients. The writ petition continued for over 20 years (1985 to 2004). About half a dozen Chief Justices retired while the case was on. The petitioner was thrown in jail after being arrested under the Anti-begging Act; his jhuggi was demolished by Delhi Development Authority; in 1989 he died without any medical treatment and rehabilitation. After 20 years of legal struggle and innumerable court orders a suitable legislation for the treatment and rehabilitation of leprosy patients is yet to see the light of the day.

- Even before ABVA was christened in 1990 as such three of us – Dr. J.P. Jain, Lalitha S.A. (Joint Women's Program), and Dr. P.S. Sahni had got together to plan working amongst the commercial sex workers (CSWs) in Delhi's red light district, G.B. Road. At that time the sex workers were being targeted for forcible HIV testing. Eventually a small dispensary was set up in one of the brothel houses where medicines for common ailments were provided and condoms were distributed. Later Shalini SCN (Women's Development Program, Indian Social Institute, New Delhi) joined this work. When CSWs realized that a section of the mainstream media had written derogatory things about them, they protested and sent rejoinders to the newspapers. In fact some of them accompanied us to the newspaper offices. When a demonstration was organized at the office of Indian Council of Medical Research, New Delhi on 28 February, 1990 some of the CSWs joined the protest with their faces uncovered.

- In 1989, Shobha Aggarwal & few others lawyers had started a Legal Support Group to provide free legal aid to the poor and needy. In 1990, the

Delhi Police under the supervision of Deputy Commissioner of Police, Amod Kant arrested 112 women in prostitution and their children on the charge of being ‘neglected juveniles’, under Juvenile Justice Act, 1986. Even after the Juvenile Welfare Board pronounced that none of them were neglected juveniles, the State went in appeal. The appeal was dismissed in March 1995. For five years Shobha Aggarwal, advocate was attending the court regularly as a lawyer for these victims. At times she had to wait in the court room for the whole day. In the first two years more than two hours on every hearing were spent in taking attendance of the women & their children; and warrants of arrests were issued against anyone who was not present. Children had to miss school for attending the court. They were made to stand outside the court room in a line like prisoners while the attendance was taken. The attitude of the judges and the court staff towards the accused was that of a priest towards a sinner. They were granted exemption from appearance only after Shobha had an argument with one of the presiding judges. The case passed through several judges. Not a single one was willing to apply his/her mind to the application for summary dismissal of appeal filed by the police as no appeal was legally allowed under the Act against the order of acquittal by the Juvenile Justice Board. One of the judges who sat on the case – without passing any order for years – was later elevated to Delhi High Court! It took full five years for a judge to dismiss the State’s appeal against the order of acquittal of the women and children.⁴

The net result has been that the police has refrained from indulging in a repeat performance of such brutal raids in later years. The spontaneous public protests by the women concerned after their arrest, and the debate that ensued in the media followed by the protracted legal battle has had a salutary effect on the powers that be.

- Lalitha is passionate about her work amongst the CSWs and their children. Her work continues till date. Her humility is unmatched. Shalini, a onetime Christian Nun had to confront, cajole, and convince the Church, the Bishops and the Indian Social Institute to be working courageously amongst the CSWs.
- Manoj Pande and J.S. Kohli were working with the Service Civil International, India (SCI) when they joined ABVA. Manoj Pande is still active in ABVA's work; for over twenty-six years Manoj has been the Secretary at Himalaya Seva Sangh, New Delhi. Earlier known as the Border Areas Coordination Committee, the Himalaya Seva Sangh was set up by a number of Gandhian Organizations in 1962 to promote community action for Social and Economic Development in the Himalayan region; to guide, coordinate and promote the activities of voluntary organizations and individual social workers working for socio-economic uplift of the people of that region. It is primarily through the efforts of Manoj Pande that ABVA's work has reached the remotest parts of the country; wherever he travels during the course of his work he is able to communicate to the local people how non-funded work by ABVA in the last 30 years continues. Both Manoj and J.S. Kohli have participated in ABVA's protests and have joined hands in bringing out some of ABVA's reports. ABVA's protests would begin by slogan shouting led by Manoj Pande in his thunderous voice and the rest would join in slogan shouting. As SCI's member, rejoinders sent by J.S. Kohli to newspapers supporting ABVA's actions would be a big boost to the fledgling organization that ABVA was in the making.

When all these 14 activists joined ABVA they brought their lifetime's experience with them which got reflected in ABVA's work. Many of them have had a brush

with socialism and feminism. Thus in different campaigns, draconian and anti-people laws were being fought against by these activists – whether the laws were against slum-dwellers; against leprosy patients [e.g. Indian Lepers’ Act, 1898 and The Bombay Prevention of Begging Act, 1959 as applicable to Delhi; The Juvenile Justice Act, 1986; The Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA); Immoral Traffic (Prevention) Act, 1986 (PITA)]. When Supreme Court of India put a ban on professional blood donors, ABVA organized meetings and protests to get the judgement overturned. Jagdish Bhardwaje was the moving spirit in this campaign.

Many of these 14 activists had a very good understanding of the functioning of the Indian Parliament through practical use of its various modalities e.g. raising questions in Parliament; call attention debates; special mention in Parliament; petitioning before committees of Parliament etc. All this was useful to ABVA in its work. Some ABVA members had first-hand experience of being petitioners in the Supreme Court; others had moved subordinate courts during the course of their work. So for this group of 14 activists challenge to Section 377, IPC and its repeal in toto did not present any insurmountable problem. With their political experience it was a natural corollary – except that no member of the sexual minorities agreed to be part of the court case till 31st December, 2000!

Out of these 14 members Shanta ji, Shalini SCN, Jagdish Bhardwaje, Yashwant & Manjit Singh have since passed away. Out of the seven people who prepared the Report *Less than Gay* six were from the aforementioned 14 members. The seventh person involved in preparing the report was Siddhartha Gautam who had joined ABVA as a law student briefly for about two to three years before he passed away in January, 1992. Even during this period he was out of Delhi to be with his parents in Kolkata; or out of India for treatment in USA. He provided lots of source material on gay and lesbian issues – both Indian and western. This

was useful in preparing *Less than Gay*. As per an understanding no ABVA member – living or dead, including Siddhartha talked about his or her sexuality in public. All constructs to the contrary are an afterthought and only violate the privacy of the person concerned by vested interests.

Many people – who joined ABVA for a few years before venturing out in other fields – helped enrich ABVA's work: Gauri, then a theatre activist with *Alarippu* which focused on amateur theatre; A. Srinivas, journalist by profession and rebellious by nature who was eased out of several newspapers every year or so since he refused to compromise with his principles; he ensured that proceedings of the court case filed by ABVA for repeal of Section 377, IPC got reported in *The Pioneer*. Ashwini Ailawadi introduced ABVA members to the world of drug de-addiction and rehabilitation. He got ABVA members to attend Al-Anonymous meetings scheduled every Wednesday and Saturday in the evening hours to listen to first-hand experience of those who had quit substance abuse for over five years; Anuja Gupta, a teacher of French joined ABVA after her brother Siddhartha Gautam died. Dimple had been involved in women's movement and lesbian issues. Though a taciturn she was persuaded to speak as the lead speaker in the seminar the 'Politics of Sexuality' organized by ABVA in 1992 at Indian Social Institute, New Delhi. Dimple got her friend Renu who worked at a Union Ministry, Govt. of India to join ABVA. D. Dalip joined ABVA and made us aware of how gay men got 'treated' at premier medical institutions in the country like AIIMS; the sort of interrogation a gay person was subjected to even if he ventured to go for an HIV testing on his own volition. Teena Gill, a journalist who was working with the Indian Express left ABVA soon after joining due to conflict of interest. In the long period of 32-33 years some ABVA members have left Delhi; six members have died; few left ABVA on their own and the core group continues to function.

ABVA Members and its supporters at the first ever gay rights protest in India at Police Head Quarters, New Delhi on 11 August, 1992 organized by ABVA



**ABVA Members and its supporters at the 2nd Asia Pacific AIDS
conference, November 1992**



INTRODUCTION

Reminiscing ABVA's Struggle for Gay Rights

Just a few days before the Supreme Court of India was on the verge of decriminalizing adult consensual homosexual sex in India an attempt was made to capture ABVA's struggle for gay rights in India in the twentieth century. This is how it got documented then and expanded later to its present size, to include developments in the present century.

ABVA's struggle was unique as history was being made and there were many firsts; simultaneously foundation was being laid for the gay rights movement in India for all times to come. It was also unique as the group comprised mainly of heterosexuals at that time but who would not publicly say so because of the policy decision taken by the group not to make any member's sexuality public as it would not have been politically correct and gay(s) in the group would have got targeted.

In the late eighties AIDS scare had gripped the country. ABVA came into existence in 1988-1989 though it was formally christened later as more members joined the group. It was an eclectic group which included a leprosy patient, a nun, a closeted gay person, social workers, doctors, lawyers, non-formal education workers, representative of women's groups etc. They came from diverse socio-economic backgrounds and from different communities and varied age group. In 1988-89 the youngest member of the group was about 24 years and oldest was about 55 years. Some lived in slums and resettlement colonies; at least one of them was a pavement dweller, and some in posh South Delhi colonies. But what held them together was their conviction and courage to wipe out all forms of discrimination around AIDS. All had struggled and fought injustice at various levels in their personal lives (as a leprosy patient, minority community member,

women) and participated in the various larger political struggles e.g. of slum dwellers. Many had worked with the victims of Sikh massacre in 1984 in Delhi and other parts of northern India.

ABVA strove for equality amongst its members to begin with. It met at a public place Indian Coffee House, Mohan Singh Place, Connaught Place, New Delhi every Wednesday from 6.30 p.m. to 9 p.m. Those who could afford it would not only pay for their cup of coffee but also for those who were unemployed or could not afford a cup of coffee. ABVA functioned through a Post Box No. 5308, New Delhi-110053, India; this costed the group Rs. 150 per year. Every week mail would be collected from the post box and presented at the Wednesday meeting. ABVA was a non-funded; non-party organization. ABVA had no money to rent an office; so by rotation ABVA's files, correspondence etc were kept in each of its member's house/office. Anyone from anywhere in India or abroad was free to attend the meeting. In fact this meeting place had become a political pilgrimage site for activists/academicians of all hues; activists from at least 30 countries had attended ABVA meetings. Reports were brought out by collecting money through sale of advance copies!!! But above all the group was fearless and had the courage to go against the stream at a time when even the most vocal advocates of gay rights today were unwilling to take a stand. Academicians and lawyers – both homosexuals as well as heterosexuals – maintained a deathly silence on the issue, excepting a few.

ABVA was instrumental in stalling the Draconian AIDS (Prevention) Bill, 1989 through petitions in Parliament, public meetings, protest actions and networking both in India and abroad. As a result, the Bill was placed before a Joint Parliamentary Committee. The Bill was withdrawn in October-November 1991 following a decision made by the Union Cabinet. Had the Bill been passed the high risk groups would have been forcibly tested for HIV and those found positive

would have been quarantined. Their civil liberties and democratic rights would have been flagrantly violated.

At that time the medical establishment including the WHO targeted four groups of people for the spread of HIV virus viz women sex workers, professional blood donors, drug users and homosexual persons. Right since its inception ABVA had realized that these four targeted groups/ allegedly high risk groups need support and understanding. ABVA decided to bring out status reports on the four communities targeted and discriminated against due to HIV/AIDS. The third report in the series was on the status of homosexuality in India.

Let me give you a glimpse of the ‘collective’ process at work. A seven-page hand written blue print of the report was drafted by P. S. Sahni who walked from his residence – out of sheer excitement and to save money – to discuss it with Lalitha S.A. at her office at Jangpura! This contained outline of the chapters to be included as also the part ‘Why this Report’. The protocol followed was adopted from our earlier citizens’ reports/ fact finding reports published prior to 1988. Since many of ABVA members had been working in Delhi on issues of public importance since 1980s those members had gone through the process of writing citizens’ reports. The issues included the genocide of Sikhs in 1984 in Delhi, the constant eviction of slum dwellers after demolition of their huts; the 1988 cholera epidemic in Delhi which resulted in the loss of 1500 lives; women’s issues involving dowry deaths and assaults. These activists were well versed in the parliamentary techniques as also of filing writ petitions in the courts; they were ‘old hands’ at protest actions. Regarding the writing of ten odd chapters in *Less than Gay* here is a glimpse. Mention has already been made about chapter one ‘Why This Report’ having been primarily drafted by one author. The template used for the chapter 2 on ‘Gay Life in India’ was what was followed in citizens’ reports brought out by human rights groups for the 1984 genocide of Sikhs viz a

large number of case histories were compiled from existing magazines and documents; also ABVA members went about getting other case histories of the time. The chapter 3 on Definition and Myths was compiled from acknowledged references (given at the end of the chapter). The chapter 6 on Culture, Heritage and Homosexuality was drafted by three ABVA members with additions from others. Dr. J.P. Jain had to visit several libraries to get a copy of the original Kamasutra which has a chapter on homosexuality and was discovered to be loaned out for the last four years by the Delhi Public Library to none other than the Union Health Ministry. *Less than Gay* has two pages devoted to the material from Kamasutra. The reference to Shikhandi (page 54) was culled out by Lalitha S.A., another co-author. The available material in Hindi had to be translated into English.

In chapter 7 on ‘Social Attitudes’ we again used the template followed in earlier reports brought out by different groups. We wrote to 80 odd prominent citizens and organizations. Only 19 replied. Most of them were activists/organizations with whom we had worked in the early 80s e.g. Amiya Rao, Inder Mohan; Joint Women’s Programme; Jagori; Ankur; Prof. M.P.S. Menon; Dr. Mathew Verghese; Paul G. Our association with these people and organizations much before ABVA was formed helped in enlisting their support. Shalini SCN, a former nun (now since dead), struggled to get the views of Paul G (sj), then Acting Director of Indian Social Institute, New Delhi; thus she got his valuable one and a half page comment on pages 65-66 of the report. The chapter was a compilation of replies (with comments of ABVA members) in response to the questionnaire sent by ABVA.

The chapter 9 dealing with AIDS was made relevant in the context of homosexuality but the basic material was already published in our report “Women and AIDS – Denial and Blame” brought out in November-December

1990. The chapter on AIDS and Homosexuality containing basic facts about AIDS runs through all ABVA reports. Likewise chapter 10 on ‘Charter of Demands’ is a must in all citizens’ reports. It was outlined by one author; additions and subtractions were done by other authors. Similar approach was followed in all the remaining chapters.

Jagdish Bhardwaje, a professional blood donor, and now since dead who was given the computer floppy (containing the draft report) with over four hundred mistakes had to sell blood there and then, get money which was then used to get a print-out of the report to have it sub-edited by P. S. Sahni at central park in New Delhi’s Connaught Place! At that time Jagdish Bhardwaje was staying on a footpath and selling his blood for a living. His meals – for a decade – were provided for at Gurudwaras in the vicinity.

The evening *Less than Gay* report was lifted and brought (in a ‘phatphat’) to the Indian Coffee House, Mohan Singh Place all the copies of the report had already been sold out. Twenty-five odd copies were set aside for the media people. The total cost of producing the document was Rs. 11,000/- only for one thousand copies. In the coming years we had received requests for translation in other Indian languages; ABVA was not comfortable with these suggestions.

The report was released at a press conference held at the Press Club of India. The response of the 25 journalists who attended the conference is telling of the times. The journalists were embarrassed and one of them actually blushed. Not a single pertinent question was asked; however the coverage was very fair, front-paged in some papers. After the press conference the journalists wanted to know who amongst ABVA members were gay men or lesbian women. However ABVA members refused to reply in view of its stated policy.

The report received worldwide attention.

I wish to draw the attention of the reader towards the document titled “Towards Equality” – A report of the Committee on the Status of Women in India (1974-75). This report is said to lay the foundation of women’s movement in Independent India. It resulted from the Government of India constituting the Committee on the Status of Women by a resolution of the Ministry of Education and Social Welfare on 22nd September, 1971.

In contrast the report on the Status of Homosexuality in India was brought out by a non-funded, non-party citizens’ group ABVA in November-December 1991 and released at New Delhi, India. This report is as important a landmark in gay rights struggle in India as ‘Towards Equality’ report is to women’s movement in India. *Less than Gay* has been nicknamed the Little Pink Book though ABVA likened it to Mao’s the ‘*Little Red Book*’ – albeit in the field of homosexuality. Likewise, Anand Teltumbde, author of *Republic of Caste* has said “What the *Communist Manifesto* is to the capitalist world, (Ambedkar’s) *Annihilation of Caste* is to India.” We Agree.



As early as January 1993 Rakesh Ratti had edited an anthology titled *A Lotus of Another Color* on the unfolding of South Asian gay and lesbian experience. The chapter “Homosexuality in India: Culture and Heritage” was the very first chapter in this book and was incorporated from *Less than Gay*.

The political environment for gays in India in the early 1990s is comprehensively documented by ABVA in *Less than Gay*. Gay persons were easy prey for blackmail, extortion, verbal and physical violence, and police extortion; police

drives against gay gatherings; entrapment of gay men by plain clothes policemen; gays going in railway loos were caught by railway police to extort money.

In *Less than Gay* we had emphasized right in the beginning:

“ABVA views homosexuality (and heterosexuality) as a political issue. We will strive to get consensual, adult homosexual acts decriminalised and fight for the right of gay men, lesbians and other “sexual minorities”, like hijras, to enjoy equal benefits of the laws on marriage, inheritance, adoption, and privacy, among others. We feel that a clear and unambiguous stand should be taken by political parties and civil rights organisations on the human rights of gay men and lesbians. This alone can root out police harassment, blackmail, violence and other forms of discrimination from their daily lives. Gay and non-gay people alike also urgently need relevant, non-moralistic safer sex education in the context of AIDS.

How much longer will the British-framed law on sodomy be tolerated by us? The Indian Lepers’ Act, which virtually criminalised leprosy patients, was enacted by the British In 1898 and eventually removed from the statute book in 1984. When will the Indian State recognize the equal rights of “sexual minorities”? Given the traditional acceptance and even celebration of same-sex eroticism in Indian culture, shouldn’t India be the focal point of a world-wide gay movement in the future?”

ABVA had a broad futuristic vision and in *Less than Gay* it asked for repeal of all discriminatory legislation singling out homosexual acts by consenting adults in private - section 377 of the Indian Penal Code (IPC), and the relevant sections

of the Army, Navy and Air Force Acts, 1950. It's Charter of Demands in 1991 included demand to recognize right to privacy as a fundamental right. The third demand in its sixteen point Charter of Demands read:

“Recognize the right to privacy as a fundamental part of the citizen's right to life and liberty, including the right to his or her sexual orientation.”

This demand was accepted and recognized by the Supreme Court of India in 2017 only – twenty six years after the group had formulated and raised the issue of privacy.

At that time the mainstream media was itself not immune to homophobia and in fact *Sunday* magazine in its issue dated 7 to 13 June, 1992, then edited by Vir Sanghvi dubbed *Less than Gay* as pornographic. ABVA filed a complaint at the Press Council of India where hearing took place after 18 months. The chairperson was Justice R.S. Sarkaria. The decision was rendered in ABVA's favour on 24 January, 1994. *Sunday* magazine was directed to publish prominently a full page rejoinder sent by ABVA and this was complied with. We quote:

“The complainants have stated that the said magazine dated 7-13 June 1991 has published a cover story titled ‘The Nether World’ and that in it there is an illustration, which is a photograph of covers of some magazines, brochures, journals, etc/ The photograph in question has *inter-alia* pictured their publication – Citizens’ Report released by ABVA on the status of homosexuality in India titled “Less than Gay” along with pornographic publications with the photo caption ‘Sex Under Cover’. According to the complainants the Citizens’ Report “Less than Gay” is research document, it bears

case-histories, personal accounts and studies on the status of homosexuality in India. It has no illustrations or photographs. The research for the report was conducted by the members of the group AIDS Bhedbhav Virodhi Andolan exclusively. The group comprises of doctors, lawyers, social counsellors, community workers and social workers. The names of the group members are printed in the report “Less than Gay”. They have further stated that the report was released on 22.11.1991 at a press conference in the Press Club of India, New Delhi. The release was covered nationwide by national dailies giving it due understanding and stating it to be the first report of its kind in India on the status of homosexuality in our country. The said report has also been reviewed in reputed Indian magazines and newspapers. They have emphatically stated that no mention has ever been made of, nor any indication whatsoever given about the report “Less than Gay” being pornographic by media in the past, other than the ‘Sunday’ magazine, copies of the report were submitted to relevant ministries of Govt. of India and to the Parliament, who have also not categorized it as pornographic literature till date. According to the complainants, the manner in which the report was pictured by the respondent magazine indicates and gives rise to the understanding that the same is pornographic literature. The complainants have strongly objected to the manner in which the magazine has derogatorily connoted their report to be pornographic and they feel that the article in question is defamatory and has demeaned the dignity of their research effort and subject matter.

The complainants had written to the editor of the magazine to rectify the error by printing their rejoinder but even after waiting for five weeks nothing was heard from the respondent's end.

The complainant, on behalf of ABVA has prayed that the editor be directed to print their rejoinder, to warn, admonish and censure the magazine/journalist involved and ensure that ABVA is compensated for the damage caused.

After considering the material available on record and the submissions made by the parties, the Inquiry Committee directed the respondent to publish the rejoinder dated 18.6.1992 which was already available with them, within a fortnight. The respondent's representative assured that they would do so."



Police repression of gay people was rampant. In 1992, 18 people were arrested from the Central Park, Connaught Place, New Delhi on the ground that they were about to indulge in homosexual acts; when a delegation of ABVA members went to the local police station an official informed them that they had received written complaints from residents of the adjoining area about the 'menace of homosexuals' in the park during evening hours. This park historically was the cruising point for gays since 1940s. ABVA decided to protest the next day at that very park with all of the 18 members participating in it and leafleting. The idea was to show resistance exactly where harassment and arrests were made by the police.

This was followed by a mass protest demonstration on 11 August, 1992 at Police Headquarters, New Delhi. It was attended by over 500 people from different organizations. Civil liberties and democratic rights group also participated. A memo was handed over to the Police Commissioner of Delhi. In the words of Nicholas Tan:

“Demonstrators gathered in front of Delhi’s police headquarters on 11th August 1992 to protest against police harassment on the gay community as their police raids frequently targeted gay cruising areas in Central Park, Connaught Place in New Delhi. They wrote a memorandum to the police: ‘When will the police get rid of its homophobia? Is it a crime for two consenting adults (of the same sex) to meet in a public place, become friendly and have a healthy discussion on sexuality or any other matter—which may or may not end up in sexual activity at a place other than a public place?’ Besides the memorandum, activists in the protest were photographed to be holding posters and banners with writings, ‘Gay Manifesto: Gays of the World Unite, You Have Nothing to Lose but Your Chains’, ‘Human Rights is the Issue, Not Sexuality’ and so forth. The Marxist appropriation articulated in this demonstration seems to suggest an internal building process amongst the activists and the homosexual persons in recognizing their community as an oppressed class, and for which revolution for the gay liberation has to take place.”⁵



In 1992, ABVA organized a day-long seminar (bilingual – Hindi & English) on the ‘Politics of Sexuality’ at Indian Social Institute, New Delhi. Around 125 people participated with everyone contributing equally towards the expenses

incurred. The auditorium was provided free of cost. The hall packed to capacity. Madhu Kishwar also finally made it to this seminar though she was a silent listener. Saleem Kidwai, Barry John, Prof. D. Banerjee from JNU, attended. Not just civilians but even armed forces personnel in uniform made it to the seminar ostensibly because the Army, Navy and Air force Acts, 1950 criminalize sodomy. (The Supreme Court judgement of 2018 has made no difference to armed forces). There was a unanimous opinion that no media persons were to be invited for coverage; however one journalist from mainstream media was invited to speak about the harassment he had faced just for sensitively writing on the issue of homosexuality in the newspaper where he worked. Other speakers included a one-time married lesbian from Himachal Pradesh; a representative from ABVA, Dimple; a lesbian researcher, Giti Thadani; a representative from *Bombay Dost*. A women's group questioned the very title of the report on homosexuality – *Less than Gay* – as being male oriented!



An early opportunity was provided to ABVA to internationalize the issue. The 2nd Asia Pacific AIDS conference was organized in Delhi from 8-12 November, 1992. ABVA had to put pressure on the organizers and threaten them with protests outside the venue if it did not get entry. The Conference was an “expensive jamboree” in a five star hotel. But ABVA members refused all facilities and carried their own lunch packets which they ate in a public park opposite the hotel and conducted its protests inside the hotel! ABVA members wore black T-shirts with slogans painted on the back especially for the conference. Phyllida Brown covering the conference wrote in *New Scientist* in its 21 November, 1992 issue:

“The unexpected stars of the conference were a group from Delhi called AIDS Bhedbhav Virodhi Andolan (ABVA) – the AIDS Anti-Discrimination Movement ...

The group staged several loud protests during the conference, drowning out doctors who tried to justify mandatory testing of ‘risk groups’. They also launched a ‘charter of demands’ calling for the release of all HIV-positive people from jail, the establishment of a commission to document all violations of human rights for infected people, and the decriminalisation of homosexuality and prostitution.

The charter also called for India’s government to prosecute doctors who refuse to treat HIV-positive people. Although such refusals are against the Indian code of medical ethics, they are regularly reported.

ABVA’s charter says police policy should be reformed to stop them harassing gay people, prostitutes and professional blood donors. Instead, they have argued, the police should concentrate on the drug barons and on the blood-bank managers.”⁶

At the same conference during one of the sessions co-chaired by Anand Grover, ABVA members made a sustained demand to the members as also the chair to let a resolution be passed for repeal of Section 377, IPC; those in the house included foreign members/doctors as well as the Indian counterparts. ABVA’s strategy was to get the issue to be internationalized since foreign media personnel were covering the conference. One ABVA member stood up and asked the house to pass the resolution; the house by raising of hands passed the resolution but the will of the house was subverted by the resolution not being included in the minutes of the session/resolutions passed presented at the plenary meeting in the

evening!!! Apparently foreign funding for repeal of S. 377, IPC had not arrived by then.

We also met Ashok Row Kavi of *Bombay Dost* during the conference; he had earlier attended our ABVA meeting and had written about ABVA's work in his magazine. Yet it was only in 2018 that he jumped into the legal battle in Supreme Court!!! Ironically Navtej Singh Johar, too, had met members of ABVA at our weekly meetings in mid-nineties. It was in 2016 only that he filed a petition in the Supreme Court!!



In April 1994 ABVA through its member Ms. Shobha Aggarwal, advocate filed a Civil Writ Petition no. 1784 of 1994 titled *AIDS Bhedbhav Virodhi Andolan vs. Union of India and others* for striking down Section 377 of the Indian Penal Code in the Delhi High Court (DHC). No LGBTQIA person volunteered to be part of the case in spite of the best efforts put by ABVA and by me personally over the next seven years.

The petition arose out of a public controversy over the refusal of authorities to make condoms available to inmates of Tihar jail, Delhi. ABVA in its petition had made the following prayers:

- a) to declare that section 377 of the Indian Penal Code is unconstitutional and void as being hit by the provisions of Articles 13,14 and 21 and 25 of the Constitution of India.
- b) to direct the implementation of the Government's National AIDS Program.
- c) to declare that all action and proceedings purporting to have been done or taken by the respondents and each of them under the said unconstitutional

and void law are wholly un-authorised by law, illegal and void and not binding on the jail inmates;

- d) to restrain the respondents from segregating or isolating prisoners with a certain sexual orientation or those suffering from AIDS or from commencing prosecution against those prisoners who are suspected to have participated in consensual anal intercourse.
- e) to direct the respondents to immediately make condoms available at the dispensary within Tihar Jail, where prisoners can freely obtain them without fear that they will be persecuted on account of their sexual orientation.
- f) to direct that only disposable syringes be used in the dispensary within Tihar Jail.
- g) to direct the jail authorities to regularly consult with the National AIDS Control Organisation, namely the Respondent No. 6.
- h) may pass any other writ, direction or order as this Hon'ble Court deems fit and proper in the circumstances of this case.

On a day to day basis, the barometer of public response to our work on gay rights issue was the reaction of the regular coffee house visitors. It may be recalled that the coffee house where ABVA had its weekly meetings boasts of visitors like members of Parliament; journalists; trade unionists; revolutionaries; theatre activists; social workers; activists of all hues. Not one amongst them congratulated us on our efforts; not one came forward to support us; we were subjected to a vilification campaign by being dubbed as a bunch of sodomizers. Since most of the ABVA members were single the smear campaign stuck as unmarried single persons were assumed to be either gays or lesbians. ABVA became a four letter word in more sense than one. We were oath bound not to contradict this as it would send a message that being gay or lesbian is something to be despised.

After we filed the petition some newspapers like the Hindustan Times front paged the court proceedings in 1994-95. Others like Economic Times and Pioneer even editorially supported our prayer of striking down of Section 377, IPC. However there was no social media or 24X7 t.v. channels then.

During the court proceedings it was obvious that the judges had a homophobic attitude. Their queries on a typical hearing would include – Is ABVA for free sex? What is its Constitution? Is it a registered body? Are you mandated to fight for gay rights? The court was informed that ABVA stood for safe sex.

ABVA members would feel contended that after filling of the writ petition, the judges, lawyers and others would at least secretly read the report – while their spouses went off to sleep – in particular the chapter on Kamasutra!

After filing the writ petition ABVA members had split into small groups to gather support from the handful of Senior Advocates/ constitutional lawyers on the issue. We met in all about eight of them. Some of them suggested that we don't affix the ABVA's report *Less than Gay* with the petition; few suggested that we should limit our prayer to supply of condoms to jail inmates and not ask for striking down of Section 377, IPC. One of them just heard us out; another appreciated our work without volunteering his services.

ABVA also wrote to 100 odd activists groups in India to flood high courts all over India with similar petitions. However, none came forward.

A lawyer, Mr.S. Muralidhar and his wife Ms. Usha Ramanathan attended our meetings; Muralidhar later appeared in Delhi High Court in ABVA's 377 petition! Muralidhar was briefed at the office of Himalaya Sewa Sangh, New Delhi by Dr. P.S. Sahni and Manoj Pande about the case before one of the

hearings. While S. Muralidhar was sitting on a *charpoy*, Manoj and Dr. Sahni were squatting on the floor. ABVA sensitized S. Muralidhar who in later years became a judge of the Delhi High Court. Ironically he was the judge who along with Justice A.P. Shah passed the judgement in 2009 decriminalizing adult consensual homosexual sex!!

Our petition was dismissed in 2001.



The Shiv Sena attacks on the film *Fire* in December 1998 led to the protest demonstration held at Regal theatre, New Delhi against the ban on the film (which depicted a lesbian relationship). This led to the formation of CALERI (Campaign for Lesbian Rights) in 1998. The CALERI meetings were also held at the same Indian Coffee House where the weekly ABVA meetings were regularly held. The irony was that no member of CALERI – which had a handful of lesbian women as members including one who had authored a book on lesbian writing from India in 1999, Ashwini Sukthankar – was willing to release the report through a press conference! A senior ABVA member, Dr. P.S. Sahni was repeatedly urged to release this report. He declined since the policy in ABVA was to encourage people from the sexual minorities to take leadership roles.

In its report *Lesbian Emergence*⁷ CALERI wrote:

“The individuals and groups who met after the protests decided to develop a year long activist effort aimed at pushing forward the issue of lesbian rights at the level of the people, through a public campaign. The focus on lesbian rights was for a reason – to articulate and nurture the troubled connections of lesbians in/with the

women's movement, to talk about the social suppression of women's sexuality in general, and to address the aspects of lesbian lives that make our struggles distinct from the gay men's movements."

ABVA was one of the founder members of CALERI and participated in the year long program of leafleting in public places; sending petitions to Parliament; and raising the issue in media. ABVA members contributed in the report *Lesbian Emergence* published in August, 1999 New Delhi by CALERI. The report documents *inter alia* about 3 pages of ABVA report for *For People Like Us* from the Hindi Version. The piece 'Why This Report' was penned by an ABVA member; 2 pieces by another ABVA member on campaigning with the Human Rights Trust as also leafleting at Delhi University; and leafleting on 8 March, 1999 at Parliament. The reporting of leafleting in two of the communities in Delhi is being reproduced below:

I

"March 8

J.B.

The 8th of March being International Women's Day, we discussed in the weekly meeting of Caleri in what manner the event could be utilised for the ongoing campaign. Finer points of political and strategic importance were examined, and it was decided to carry out a leafleting. The venue was fixed for Mandi House, the cultural centre of Delhi, as this was the starting point of a rally co-organised by the AIDWA (All India Democratic Women's Association) in which women from all parts of the country were to participate, demanding reservations for women in Parliament. The rally was to conclude at Jantar Mantar (the Hyde Park of Delhi).

On the day of 8th March, due to a few mix-ups and miscommunication, the leafleting was shifted to Jantar Mantar itself. There were five members present, along with 1000 leaflets. The point beyond Jantar Mantar on Parliament Street, where the rally was to be addressed by the leaders of the group, was blocked by a front-line outfit of the ruling political party, opposing reservation for women. Under the circumstances, in order to avoid confrontation, the women's rally was accommodated by the police on the forecourt of the Parliament Street police station. The place thronged with women, listening to the speeches. For crowd control, there was a large number of women police officers in their khakis and berets.

After a while, a woman police officer came straight to me and, in a commanding tone, asked for a couple of leaflets, folded. Having said this, she looked the other way while six or seven leaflets were folded in two and placed into her extended palm. Soon the same police woman returned with two of her mates in uniform. This time she took a bunch of ten leaflets. The interest of these women and many others seemed to indicate that we were fulfilling a pressing need for information.

Many other women also came requesting extra copies, but we had exhausted our stock of leaflets. We exchanged our impressions briefly, and nearly all of us had experienced similar situations. It was learnt that a woman from Bihar had asked for several leaflets to distribute on the bus on her way back to her home state, and for her friends there.

Finally before we dispersed we went to a corner tea shop across the road from the police station. Over cups of the insipid beverage, we

talked and talked about everything – literally and figuratively, it was a storm in a tea-cup! We came to share matters of sexuality at a personal level. The political work had inspired confidence for personal sharing.”

II

“Delhi University

A.B

At noon on February 15, 1999, ten of us met at Delhi University, by the Statute of Vivekanand near the library. We had chosen to leaflet here in the hope of interacting with a community of students from all over the country, with a spectrum of political leanings.

We divided ourselves into groups of two (each consisting of one man and one woman) and went in different directions to distribute the 500 handouts. We started out being very apprehensive about the possibility of violent reactions – in fact, we were not even sure that people would take leaflets from us! After all, we would be leafleting right next to the student union, currently run by the ABVP (Akhil Bharatiya Vidyarthi Parishad) which has a Hindu fundamentalist perspective. However, we had taken various precautions – we had decided in advance that we would not entangle ourselves in arguments or indulge in discussions to get across our point of view (for fear of inciting people) but would instead respond to any questions by asking people to write to us; we had decided that the Vivekanand statue would be the meeting spot to which we would return in case of trouble; we had designated one of us as the coordinator who was entrusted with making decisions in a crisis situation.

There was no such trouble, as it turned out – students willingly accepted the leaflet, and most began reading it and discussing it right then and there. We did receive some critical comments, though. One of us was reprimanded angrily, “Don’t tell me it is not wrong – I’m a law student,” while another volunteer, a woman in her 70s, was asked, “Why are you doing all this, at your age? You should be in the U.S.”

An ABVA member was entrusted to attend the Human Rights Trust’s general body meeting scheduled for 20 March, 1999. Here is his report.

“The Human Rights Trust

J. B.

An organisation exerted on various human rights issues; among other things, it has been campaigning for the repeal of Section 107/51 IPC (Creating Public Disharmony, a Section effectively used to quell public protest) for the past year. The Trust has been making efforts to create a network in the North and has effectively established local offices in many regions.

On April 3, 1999, the Delhi chapter of the HRT (Human Rights Trust) held its Annual General Meeting at the Gandhi Peace Foundation. The new executive body was elected, and it called for suggestions on taking up new aspects of human rights issues. At this juncture, it was pointed out that HRT should consider issues of neo-minorities (i.e. professional blood donors, people of alternate sexualities). It was mentioned that the Campaign for Lesbian Rights had come into being, along with a suggestion that HRT should take a stand on the issue and extend support. A motion was taken by the

new executive committee and it was passed that HRT expressed solidarity with the Campaign. In a letter sent to the Campaign confirming this, HRT affirmed that, in their opinion, the work of the Campaign for Lesbian Rights is “a part and parcel of the broader Human Rights movement.”



During the CALERI campaign a request was received by ABVA from an activist based in Cuttack, Orissa asking for intervention to rescue a lesbian whose life was in danger. The letter stated:

“Dear Friend,

From the book ‘Less than Gay’, I got your address. Whether this address still exists or not I don’t know because the book was published in 1991 and now it is 1998. Still with a hope I am writing this letter and seeking your immediate attention/intervention. This letter is meant to rescue a lesbian who is in danger now.

Mamata - Monalisa story came to lime-light when both attempted suicide. Aged 19 and 24 respectively they fell in love with each other five years back. They knew that society would not accept their relation and afraid of this they filed an affidavit before the court to live together and help all similar lesbians and widows.

When Monalisa’s father got transferred to another place far from their previous place (Monalisa’s father is a Govt. employee) both became panicky. This un-expected parting became intolerable to both and they tried to commit suicide by consuming some poisonous

substance. Also both cut their respective veins. The incident happened at Mamata's residence. Fortunately, Mamata was saved due to immediate attention of family members but Monalisa died on way to hospital. Mamata is now in Cuttack Medical College. She is under the treatment of doctors of Female Medical Ward of S.C.B. Medical College, Cuttack, Orissa.

Now local people are demanding the arrest of Mamata. As the incident happened at Mamata's residence the general opinion, including that of media, is that she has killed Monalisa. From local media I got these facts and thought it better to inform you.

My interest - I am not a gay. But after reading 'World of Homosexuals' by Shakuntala Devi and also 'Less Than Gay' I know it (homosexuality) is natural. Also I know about gay/lesbian movement around the world.

Take my support as a form of solidarity to your struggle.

Hope you would take immediate steps to save her life.

Yours truly

Sd/-

Note: *The identity is being concealed as in a subsequent letter he mentioned facing difficulties in his NGO on account of our letters and telephone calls pertaining to the Mamata-Monalisa case!"

Accordingly ABVA sent a two member fact finding team to enquire into the attempted suicide of Mamta and Monalisa in Cuttack, Orissa. The team started from New Delhi on 3 February, 1999 and reached Cuttack after covering about 17,00 kms of train journey on 4 February, 1999. The team met Mamta's family members at Mamta's house; as also Monalisa's family members at Monalisa's

house. The team also met concerned police officials, social activists, MLA, crime branch officials.

The background against which ABVA decided to send a fact finding team is captured thus:

“The demonstration against the ban on FIRE brought the political hypocrisy of most activist groups to the fore. Not surprisingly Shabana Azmi (a part-time activist) and Nandita Das (a one-time activist) who played the lead roles in FIRE refused to take a public stand in favour of lesbianism. Deepa Mehta, the Director of the film – thankfully with no pretensions to being an activist – publicly asserted that lesbianism is a distortion in society. While film personalities like Dilip Kumar, Mahesh Bhatt and others petitioned the Supreme Court for the film to be exhibited unhindered in movie theatres. M.P.s in Parliament, too, voiced similar concerns. Yet there was deathly silence on the issue of lesbianism itself by both the film personalities and the People’s Representatives! Historians in the next century would not be able to figure out what was the issue at stake in FIRE and the stand taken on it by Kuldip Nayar, Shabana Azmi and other MPs even as they were passionately urging Parliament to allow uninhibited screening of FIRE. Soli J. Sorabjee, the Attorney General of India, appearing on behalf of Union of India is reported to have volunteered to the Supreme Court that security would be provided to those film personalities receiving threats from Shiv Sainiks. The Supreme Court chose not to take a stand on the issue of lesbianism.”

We reproduce below in its entirety the Notarial Certificate and the Deed of Agreement for partnership as well as to remain as life partner made on 6.10.1998, barely four days before Mamata and Monalisa entered into a joint suicide pact. These documents were brought by the fact finding team and formed part of ABVA's report *For People Like Us*.⁸

**“DEED OF AGREEMENT
FOR PARTNERSHIP AS WELL AS TO REMAIN AS
LIFE PARTNER**

This DEED OF AGREEMENT is made on this the 6th day of
October, 1998:

BETWEEN

1. Mamata Rani Mohanty, aged about 25 years, daughter of Sri Dhruba Charan Mohanty of village Hulipur, PO. & P.S. Kishore Nagar, Distt. Cuttack, hereinafter called the **FIRST PARTY**.

AND

2. Monalisa Mohanty, aged about 19 years, daughter of Shri Ashwini Kumar Mohanty, resident of village Hulipur, PO. & P.S. Kishore Nagar, Distt. Cuttack, hereinafter called the **SECOND PARTY**.

NATURE OF DEED - Partnership to live together to earn livelihood.

RECITALS:-

(Description) WHEREAS the first party is a
Diploma Holder in Electronics and Telecommunication Engineering
and Serving as Junior Clerk in Soil Conservation Department,
Government of Orissa;

AND

WHEREAS the Second Party is a student and is a neighbour of the first party;

AND

WHEREAS the First Party and Second Party both are bachelors and have intimated their relationship with one-another for last several years;

AND

WHEREAS their relationship has become so close that it is not possible on the part of either party to live apart or sever such a relationship;

AND

WHEREAS both the parties hereunto have decided to live together as Life Partner forming a Partnership for the purpose of earning their livelihood.

IT IS ACCORDINGLY DECIDED AS FOLLOWS: -

1. On and from to-day the first party and the second party shall live together and by means of any business to earn their livelihood.
2. The partnership shall be known as “MAMATA & MONALISA”.
3. The partnership shall have a capital of Rs. 1,000/- (Rupees one thousand only) contributed equally by the parties.
4. Both the parties shall invest the said amount in some sort of cottage industry to be engaged in helping financially widows, divorcees, handicapped women, destitutes, orphans etc.
5. Both the parties have agreed to remain bachelor and to spend their entire income for the purposes mentioned supra.
6. Both the parties have hoped and expected to fulfil their ambition in life of helping poor and destitutes and to accept unmarried girls as partners of their temperaments.

7. Both the parties have agreed that neither the parties shall ill-treat, annoy nor create such atmosphere which may cause mental or physical cruelty to the other.
8. Both the parties having entered into this Agreement and having decided to continue their life as Life Partner for good without acting any fraud, coercion, misrepresentation, concealment etc. of each other and shall create an atmosphere for healthy sound and peaceful living.
9. With these stipulations this Partnership deed is executed by the parties without any force or pressure in presence of the witnesses in full understanding and realisation of the realities of this Deed.

(signed by all the parties in the presence of witnesses)

NOTARIAL CERTIFICATE

(Pursuant to Section 8 of the Notaries Act, 1952)

TO ALL TO WHOM THESE PRESENTS *shall come Sri Kailash Ch. Rout 'NOTARY' duly appointed and authorized by the Government of Orissa residing at Cuttack do hereby verify, attest and certify that, this deed of Partnership annexed hereto Comprising 6 (six) sheets has been executed in my presence by the executant(s) and the executant(s) has/have been identified by Sri Goutam Muduli Advocate.*

The contents of this annexed deed have been read over and explained to the executants in my presence and the executants appeared to understand the same and admitted to be correct and put their signatures and thumb impression on the instrument.

IN FAITH AND TESTIMONY WHERE OF
being required of a NOTARY, I do hereby authenticate execution
of the instrument under my Official Seal and Signature on the 6th
day of Oct 1998, at Cuttack (Orissa)

Regd. No.395

Date: 6/10/98

Sd/-

KAILASH CH. ROUT

NOTARY

Cuttack-Sadar Sub-Division”

This Report included a Charter of Demands:

1. “Institute an Inquiry into the Mamata - Monalisa case and bring the facts before the public through the National Commission for Women (NCW).
2. Provide best medical treatment to Mamata at State expense. She needs to be airlifted to AIIMS, New Delhi for Plastic Surgery/ Hand Surgery on her wounds around the hand and wrist.
3. Withdraw all cases against Mamata to put an end to her harassment at the hands of the police.
4. Have the Press Council of India issue guidelines for respectful and sensitive reporting in cases where relationship of 2 people of the same sex are involved.
5. Legally recognize and encourage friendship agreements between single people of the same sex as a valid way of organizing family life.

6. Alternatively, amend the Special Marriages Act to allow for marriages between people of the same sex (or between people who may be inter-sexed, or have undergone sex-change surgery, and any others). All consequential legal benefits of marriage should extend to gay marriages as well, including the right to adopt children, to execute a partner's will, to inherit, etc. Same-sex couples should also be entitled to the legal benefits that accrue to their heterosexual counterparts of common law marriages.

No presumption as to fitness or unfitness for custody of a child or visitation rights shall arise based on sexual orientation of either parent in such a situation.”

The full findings of the fact finding are documented in the Report. It is a 64 paged report and is available both in Hindi and English. The English version was released in March 1999; while the Hindi version was released in July 2001.

ABVA was pained to note that in spite of repeated requests to CALERI members to volunteer to do the fact finding, none agreed. It was left to two ABVA members, Arun Bhandari & Jagdish Bhardwaje (now since deceased) to undertake a fact-finding mission to Orissa. The fact finding Report brought out in 1999 by ABVA detailed the tragic tale of two lesbians, Mamta and Monalisa who wanted to marry and stay together. Mamta's father Mr. Dhruba Charan Mohanty wrote a letter to ABVA:

“Thank you for your sincere cooperation and understanding. My daughter Mamta and her friend Monalisa were fast friends and thereby unable to withstand each other's separation. Moreover four days before (i.e. 6.10.1998) the incident of suicidal attempt, they

sought the help of Court for a Notarial Certificate of Partnership Deed. On 10.10.1998 both of them left behind a suicide note. The final result was death of Monalisa and rescue of Mamta...”



I was involved in women's movement since 1981, more particularly against sexual harassment of women in Delhi University colleges; and also what had then come to be known as bride burning on the issue of dowry.

It was easy for me to mingle with LGBTQIA members as since mid-eighties I have had the occasion to be in touch with closeted gays; one of them was an LLB student in Delhi University while I was pursuing my legal studies. From 1983 to 1986 I had worked with Barry John on remedial drama; at that time Barry John was the only known gay person in Delhi. My interactions with gay friends/persons encouraged me to volunteer my name for the ABVA petition filed in the Delhi High Court in 1994.

I spent a lot of time for the next seven years with closeted gays/groups. My house had become an adda (meeting point) for gays and lesbians to assemble and socialize. A well-known architect, a Delhi University history teacher, Saleem Kidwai and a Punjabi writer; the co-editor of Manushi magazine (now since defunct), Ms. Ruth Vanita (who in June 2000 had entered into a lesbian marriage in USA), a woman advocate in Delhi would frequently visit my house. Since none had gone public about their sexuality till 2000, there was no question of any one of them joining the legal battle through ABVA's petition. An attempt was made to start a group by the name of DARE (Document, Archive, Research, Education center for gays and lesbians). The group did not survive for long as I had a principled stand against working on funded projects. From 1994 to 2001, I

attended social gatherings of mixed groups or where only gays and lesbians participated. The social space which got cultivated was conducive for people of diverse sexualities to interact. However, such gatherings were mainly social-cultural groupings; political formations were to come much later.



As an offshoot of the Aadhar case a nine judge Constitution Bench of the Supreme Court of India on 24 August, 2017 ruled that “the right to privacy is protected as an intrinsic part of the right to life and personal liberty” and is a fundamental right. This paved the way for a favourable judgement on Section 377, IPC. It needs to be reiterated that right since 1991 ABVA had been demanding right to privacy as a fundamental right.

As some LGBTQ persons finally filed writ petitions from 2016 to 2018 in the Supreme Court of India, the latter was more inclined to listen to these people whose fundamental rights were being violated; after all fundamental rights of organizations approaching the court through writ petitions can never be violated. The LGBTQ petitioners amongst gays include a Sikh, a Muslim and a Hindu as also a lesbian – the right antidote to a fascist regime at the Centre.

The central government finally put the onus of deciding the fate of Section 377, IPC on the Supreme Court and informed the apex court that it would not contest the batch of petitions seeking to decriminalize homosexuality. “So far as the constitutional validity of Section 377 to the extent it applies to ‘consensual acts of adults in private’ is concerned, the Union of India would leave the said question to the wisdom of this Hon’ble Court,” read a three-page affidavit filed on behalf of the centre.

A complete somersault by the mighty Indian State from its original strong denunciation and non-acceptance of homosexuality to a total surrender to the forces of change.

During the course of the hearings the judges of the Constitution Bench made the following statements as reported in the media:

- that the court only intended to get out of the “mess” created by the 2013 judgement which had recriminalized gay sex
- this community feels inhibited to go for medical aid due to prejudices against them
- because of family pressures, societal pressures etc. they are forced to marry
- it is not human beings alone who indulge in homosexual acts, many animals also show homosexual behavior
- it is not an aberration but a variation
- our focus is not only on the sexual act, but the relationship between two consenting adults and the manifestation of their rights under Articles 14 and 21 ... we are dwelling on the nature of relationship and not marriage ... we want the relationship to be protected under fundamental rights and to not suffer moral policing
- the cause of sexually transmitted diseases is not sexual intercourse, but unprotected sexual intercourse. A village woman may get the disease from her husband, who is a migrant worker. This way would you now want to make sexual intercourse itself a crime?
- if the ‘order of nature’ should mean only act that results in procreation, will sex that does not lead to reproduction be against the ‘order of nature’

- if you licence prostitution, you control it. If you kick it under the carpet owing to some Victorian-era morality, it will only lead to health concerns. All prohibition is wrong; the whole object of fundamental rights is to give court power to strike down laws which a majoritarian government, swung by votes, will not repeal.
- we don't wait for majoritarian governments to repeal laws. If a law is unconstitutional, it is the duty of the court to strike it down.

I had been present in the Delhi High Court hearings in our case during 1994-95. I made a conscious effort to attend the Supreme Court hearings of the present cases in July 2018. During the course of the hearing spread over four days it appeared that the judges had made up their mind on the issue and were actually educating the lawyers on what same-sex love was all about. Not that any substantive arguments were really needed as the judges seemed already convinced.

It appeared that the judges of the Supreme Court had overnight turned activists supporting the cause of repeal of Section 377, IPC. Truly the idea whose time had come. As the wag would say 'the judges have come out of the closet!'



Around the third anniversary of gay sex judgement by the Supreme Court ABVA was compelled to document its tryst with activists, lawyers & judges before, during and after its writ petition – demanding *inter alia* full repeal of S. 377, IPC – was filed.⁹ (quote)

- In 1991 while ABVA was preparing the report *Less than Gay*, it wrote to 80-odd prominent citizens and organizations from different walks of life in Delhi. Reminders were also sent. Only 19 replies were received. An appointment was sought with Manushi – a journal about Women and Society. When a two member ABVA team went at the appointed time, we were in for a shock as the editor made herself unavailable. So we wrote in their register about our visit and not getting any response returned back. No reply was received by Manushi to our questionnaire.
- During the 2nd Asia Pacific AIDS Conference of 1992 attempts by ABVA to get a resolution for repeal of S. 377 IPC passed by the House were scuttled by the chairperson and rapporteur of the session, Mr. Anand Grover. This has been captured in the earlier part of this piece.
- The day *Less than Gay* was publicly released at the Press Club of India, New Delhi in November 1991 ABVA had sent a petition to the Parliament urging it to address the Gay Manifesto wherein a Charter of Demand has been enlisted. Right through 2014 till date we have been petitioning members of Parliament including Sonia Gandhi, Rahul Gandhi and people occupying public offices like Kiran Bedi on LGBTQIA issues. It is the Parliament alone which can get the Gay Manifesto debated and implemented. Unfortunately till date Parliament has stonewalled all attempts to let the issue be debated.
- In 1994 after filing the writ petition in the Delhi High Court, ABVA members had split into small groups to gather support from the handful of Senior Advocates/ constitutional lawyers on the issue. We met in all about eight of them – including Mr. R.K. Jain; Mr. Rajeev Dhavan; Ms. Indira Jaisingh; Mr. Kapil Sibal, Mr. Soli Sorabjee. One of them suggested that we don't affix the ABVA's report *Less than Gay* with the petition (perhaps the

judges may not take kindly to it!); another suggested that we should limit our prayer to supply of condoms to jail inmates and not ask for striking down of Section 377, IPC (perhaps too radical for conservative judiciary)!! One of them just heard us out; another appreciated our work without volunteering his services. Mr. Rajeev Dhavan got us information on how S. 377 came about in British India and was kind enough to talk to six-seven ABVA members for over an hour. Mr. Sorabjee got us relevant case material from U.K.

- In 1994 ABVA shared copy of the writ petition filed in DHC with the gay community through Saleem Kidwai (now since deceased). They agreed with the strategy and the demand for a full repeal of S. 377, IPC. ABVA's strategy for the case was to emphasize that if gay people stood criminalized through section 377, IPC, the gay community would be hard pressed to cooperate in national anti-AIDS campaign launched by the Govt. of India. ABVA produced press clippings to emphasize that same-sex activity was happening in Tihar jail, Delhi but condoms were not being kept in the jail dispensary. ABVA's prayer was for striking down of full section 377 IPC and provision of condoms in Tihar jail. Ironically the same strategy was used by other NGOs but with a diluted prayer for partial repeal of S. 377, IPC. No gay person volunteered to be involved in ABVA's case; consequently no victim participated in court proceedings. The same mistake was made by these NGOs when they took up the case. So in the 21st century NGOs used the template originally painstakingly prepared by ABVA; however for about a decade and the half these NGOs replicated ABVA's mistake of not having an LGBT victim member as a petitioner.
- Navtej Singh and Ashok Row Kavi had attended ABVA meetings in early 1990s. Additionally ABVA had interacted with Ashok Row Kavi and other

LGBT members like Giti Thadani at the International AIDS Conference in Delhi in 1992. But ABVA did not solicit them for intervening in the case as gay people who are victimized. This was the ethics followed in ABVA. On their own these activists didn't volunteer.

- In 1994 Soli Sorabjee wrote an edit page piece in the '*Times of India*' dealing with AIDS, human rights and the superior courts. Two ABVA members Manoj Pande and P.S. Sahni went to his office and requested the staff for a meeting with Soli Sorabjee. When they finally got an audience with Mr. Soli Sorabjee, he was hesitant to talk with them and asked them to send their lawyer to meet him. They told him of ABVS's writ petition in the Delhi High Court in one or two sentences. As highly qualified and experienced activists the two were definitely put off by his attitude. When such lawyers write pieces in the newspapers they sound so accessible but our experience was otherwise. The fact is that both of these ABVA activists were in the forefront of the movement and had already read up everything that was available pertaining to our writ petition. Political history of ant-colonial movement in India is replete with examples where revolutionaries/ movement leaders would comment that lawyers should respect their views after giving them a patient hearing; and that lawyers should confine themselves to law and constitution. Eventually Soli Sorabjee appeared for one hearing in the entire proceedings till the case got admitted after a year-long period. Thereafter he never appeared.
- Indira Jaisingh, as a senior advocate, had appeared for the case at one hearing on 26 April, 1994. However for another hearing she telephonically informed about her inability to be present in court. P. S. Sahni went to her residence-cum-office and respectfully took the case file back from her and attempted overnight to arrange for another lawyer to be present in court. Ironically her

close associate Anand Grover filed a writ petition on the same issue in DHC in 2001.

- Dr. S. Muralidhar had interacted with ABVA members on several occasions. He had additionally appeared on behalf of ABVA in the DHC on 26.5.1994 and 13.7.1994. Later he was a judge in a division bench hearing a petition on behalf of a heavily foreign funded NGO. It was brought to his notice by Janak Raj Jai, lawyer that he ought to recuse.¹⁰ It is pertinent to point out that ABVA's petition was filed in response to Janak Raj Jai's petition in 1994 and both were clubbed together. P.S. Sahni and others in ABVA feel that S. Muralidhar violated judicial ethics in refusing to recuse. It needs to be pointed out that lawyer S. Muralidhar – as he then was – appeared in two hearings and at other times would send only the junior. But after the case got admitted in 1995 both of them never made any appearance.
- Rajesh Talwar left for a Commonwealth Scholarship of a year's duration for U.K. perhaps courtesy Soli Sorabjee with whom Rajesh had been in contact for the ABVA case. P.S. Sahni requested Rajesh to prepare a draft of the final arguments for the case to which he said that he would not in be in a position to do so. Thereafter he left for U.K. and ceased to be associated with the case. Rajesh Talwar had appeared several times till the case got admitted.
- Lawyers Soli Sorabjee, Indira Jaisingh, S. Muralidhar, Rajesh Talwar appeared till the case got formally admitted in early 1995; after that none appeared or participated in court proceedings or followed up the court proceedings or got back to ABVA.
- During the court proceedings it was obvious that the judges had a homophobic attitude. Their queries on a typical hearing would include – Is

ABVA for free sex? What is its Constitution? Is it a registered body? Is it mandated to fight for gay rights? The court was informed that ABVA stood for safe sex. ABVA members in full strength would attend the hearings and observed that the attitude of the judges and their tone and tenor would be different when say Mr. Soli Sorabjee & Indira Jaisingh made their appearances. ABVA members strongly felt that whatever the age of the lawyer the judiciary should not make a distinction in its pronouncements because that gives a feeling of bias. We at ABVA felt like a fish out of water in such courtroom environment.

- How can gay sex be equated with free sex? ABVA debated such finer points in its weekly meetings and concluded that the best course for it is to use the writ petition as a campaign material for the repeal of S. 377, IPC. ABVA also wrote to 100 odd activists' groups in India to flood high courts all over India with similar petitions. However, none came forward. ABVA was not oblivious to the fact that just a handful of gay people had gone public about their sexuality till the end of the last century. But participating in final arguments of the case after a decade of *Less than Gay* being published and with not one LGBTQIA member volunteering to be a petitioner in our case was not acceptable either to us or for that matter even to the courts. After all human rights of individuals can be violated but not of any organization like ABVA.
- I had done extensive research on Public Interest Litigation by studying their outcome during the period 1982 to 2000 and had concluded by the year 2000 that PILs fail to provide justice to those who need it most. I had documented the well laid down principle of natural justice getting violated in PILs. In 2005, I brought out a report titled "*The Public Interest Litigation Hoax – Truth Before the Nation; A Citizen's Report on how PIL fails to provide*"

justice to those who need it most”.¹¹ I had shared the research findings with ABVA members on several occasions and ABVA was convinced about the path breaking findings. We also knew that since 1980 heavily funded NGOs and equally slick lawyers have dominated court proceedings through their PILs and the corporate press would highlight the proceedings putting a dozen odd lawyers in India – out of over one million lawyers –in public limelight. Funded NGOs and PILs have together harmed movements and andolans in India. Out of conviction that PIL subverts movements, ABVA has not filed a single PIL in this century. ABVA observed that in the last decade of the last century following the publication of *Less than Gay* a sort of cottage industry of NGOs mushroomed around the issue of LGBT community. It is ironic that while ABVA was one of the pillars of Campaign for Lesbian Rights (CALERI) and participated in all its leafleting program in 1998, even in 1999 requests were being received by ABVA from Humsafar Trust – an offshoot of Bombay Dost – requesting us to conduct a fact-finding enquiry in Orissa where two lesbians had attempted suicide!! ABVA sent a fact-finding team and documented the same in its Report *For People Like Us*. The truth of the matter is that till the end of the last century the LGBT community was comfortable in social, cultural gatherings but street politics was anathema to it. The fight for rights in courts for a gay or lesbian then seemed an uphill task. Both Ashok Row Kavi and Navtej Singh Johar took three to four decades to affix their names to court battles.

- The Delhi High Court dismissed ABVA’s petition in early 2001. Thereafter Anand Grover filed a writ petition in the Delhi High Court asking for partial repeal of S. 377, IPC (what a climb down it was my fellow LGBT members!). Mr. Grover requested the court to club his petition with ABVA’s pending petition. So the piggy riding had started. ABVA’s position was unwavering – asking for full repeal of S.377. At a meeting within the DHC

premises Anand Grover in the presence of Anjali Deshpande, a freelance journalist suggested that ABVA's petition could be clubbed/taken up with his petition. Apparently he was not aware that ABVA's petition had been rejected; there was some confusion even at the level of the court bureaucracy. But ABVA refused to be solicited. How could ABVA join hands with a petition which had toned down ABVA's demand for a full repeal of S. 377, IPC?

- A petition on behalf of Ashok Row Kavi and others was filed on 27.04.2018 – barely few months before the final arguments – only after the Supreme Court made public its intention to hear the final arguments in Navtej Singh Johar's case which was filed in 2016. Johar was nowhere in the gay rights movement till 2016; even then he made it clear that he would not be the “poster boy” for the cause.
- In 1986 P. S. Sahni had got involved in a writ petition dealing with rehabilitation of leprosy patients. Lawyers Kapila Hingorani & Nirmal Hingorani fought the case before Supreme Court from 1986 onwards for years without charging a single rupee. These two lawyers fought the case relentlessly. In 1989 P S Sahni was checked by the security people thrice as he was entering the court no. 1 i.e. the court of the Chief Justice of India. At the third attempt on checking he walked out of the court premises and told the lawyers concerned that an apology is in order for checking a Sikh social activist thrice while all others were checked only once. P. S. Sahni had already attended dozens of hearings in the case. He made it clear that unless a written apology is offered he would not assist the court in the case. What followed was an oral apology much later by Justice Kuldeep Singh which was not acceptable to P. S. Sahni and he withdrew from helping in the case thereafter. The point is that if a Sikh social activist is being discriminated

against right at the entrance of the court room of CJI what trust would the judiciary generate while dealing with the writ petition regarding discrimination faced by the leprosy patients all over the country?

- During the freedom movement many revolutionaries including Shaheed Bhagat Singh used the court proceedings for a while to campaign on an issue and withdrew once it was abundantly clear that the judges and the courts then have nothing to offer by way of justice.
- After ten years of campaign with *Less than Gay* we at ABVA had come to a similar conclusion. No self-respecting activist could take it any longer with the rampant homophobic attitude of the judges. True, much later in 2018 the constitution bench which heard Navtej Singh Johar's petition had already made up its mind to partially repeal S. 377 IPC.
- The Supreme Court judgement of 2018 ignored ABVA's pioneering movement for full repeal of S. 377, IPC. The lawyers and activists appearing before the Constitution Bench of the Supreme Court did not bring forth the contributions of ABVA to the movement. The same observation can be made about the Delhi High Court 2009 judgement. However Justice S. Muralidhar was aware of ABVA's role from 1988 onwards; he had appeared for ABVA; he was aware of *Less than Gay* (which was annexed with the petition); yet the judgement turns a blind eye to this crucial movement of the twentieth century. In fact lawyer Janak Raj Jai's request for recusal of Justice S. Muralidhar perhaps created a dilemma. If the movement was to be brought on record in the DHC judgement then Justice S. Muralidhar would have had no option but to recuse from the case. ABVA felt that having a 'converted' judge to be part of the Bench could at best result in a pyrrhic victory by way of partial repeal of S. 377, IPC.

- Anyone going through the above facts with the seriousness that they deserve would likely conclude that it was a politically correct decision to abstain from court proceedings during the final argument in 2001. History bears testimony that it took the judges another 17 years to sensitize themselves on the issue. Meanwhile ABVA's demand of Right to Privacy (as enshrined in Gay Manifesto 1991) got conceded in Puttaswamy's petition in 2017; while transgender people got the third sex status in 2014 in NALSA's case.
- While we had abstained from the court proceedings in our own petition's final argument in 2001, much to our surprise and consternation ABVA's petition filed in 1994 landed in the Supreme Court courtesy Anand Grover in 2013. He had used our petition as also the counter affidavits filed by the government authorities in his written submissions filed in Koushal's case in the Supreme Court. (Quote)

“An Organization, Aids Bhedbhav Virodhi Andolan, filed a writ petition in the Delhi High Court challenging the constitutionality of Section 377. The immediate given reason for filing the WP was the refusal by the Inspector General of Prisons to distribute condoms in Tihar jail, as it would amount to encouraging homosexuality which is a crime under Section 377 [*See W.P. No. 1784 of 1994, at pages 186-202, paras 3-4 at page 187 – 188 in Compilation - Volume 5*]. The Inspector General (Prisons) Tihar Jail filed a counter affidavit stating that —isolated cases of homosexuality are reported and action is taken in each case on merits.¶ On the issue of condom distribution for HIV prevention, she stated —there is no HIV+ prisoner in the jail...doctors regularly check prisoners for HIV...whenever any such case is brought to the notice of the concerned authorities, the prisoners

are separated. In the circumstances, there is no justification and legality for supply of condoms in the prison as it will promote homosexuality.¶ [See counter affidavit filed by Inspector General Prisons, dated 10.09.1994 at pages 203- 206 in Compilation - Volume 5]. NACO filed an affidavit stating that there is a need to distribute condoms in jails in order to prevent the transmission of HIV [See counter affidavit filed by NACO dated 21.09.1994 at pages 207-210 in Compilation - Volume 5].”¹²

The judgement in *Koushal’s* case was delivered on 11 December, 2013.

ABVA has tried to document lesser known facts for posterity. No offence is intended to anyone.



“*Right to Love*” (2018) a monograph edited by Arvind Narain published by the Alternate Law Forum, Bangalore states:

“ABVA files petition in Delhi High Court challenging Section 377, which was dismissed for non-prosecution as the group had become defunct.”

The Alternate Law Forum (ALF) came into existence in the year 2000 but it is expected that those associated with it would have read up developments of the last decade of the twentieth century as also the next 22 years in so far as ABVA’s commitment and work is concerned. It is not clear if ALF has become defunct after the 2018 judgement *vis-à-vis* its work on sexual minorities. For a beginning the ALF is advised to read up the 2nd Edition of *Less than Gay* to get ABVA’s

perspective. Similarly Shohini Ghosh's comment in the Indian Express following the 2018 judgement is patently wrong bordering on defamation. The comment stated that ABVA's petition was not admitted!!! Academicians are assumed to be more serious in their research; slipshod statements are more in the domain of the political class.



Around the time the Supreme Court passed the gay sex judgement ABVA's struggle for the LGBTQIA rights was reported both in print and in electronic media. Glimpse of the coverage is given below:

I

Dipanita Nath, in "Rainbow at the end of the road: Queer resistance to Section 377"; The Indian Express, 5 August, 2018:

"They did try. At a tea stall in Connaught Place, Cherry might meet members of the AIDS Bhedbhav Vidroh Andolan (ABVA), now a group of elderly people who used to be idealist, Left-leaning youth from the medical, legal, academic, human rights and social work fields. In April 1994, ABVA had filed a 75,000-word petition in the Delhi High Court asking for Section 377, which criminalises homosexuality, to be struck down. Advocate Shobha Aggarwal had stood before a judge, who had asked, "So, are you in favour of free sex?" One of the lawyers for ABVA shot back, "My Lord, I am in favour of safe sex." In 2001, the case was dismissed. Aggarwal, who was 31 then, says, "Apart from the attitude of the judges, there was no member of the gay community who came forward."

...

Aggarwal was surprised to see the crowd that turned up for the hearings this July — there was barely space to stand in Court Number One. In the late '90s, there were few people in the Delhi High Court curious about the arguments against Section 377.”

II

Shashank Bengali & Parth M.N.in “These activists helped bring India to the brink of a landmark ruling on gay rights”; *Los Angeles Times*, 10 August, 2018:

“Early activists: ‘Not a single question was asked’

“It was a time of fear, secrecy, mass arrests and clandestine rendezvous for India’s gay community. In 1994, when the group filed the first significant legal challenge to Section 377 in the Delhi High Court, no openly gay person volunteered to testify in the case. “My gay and lesbian friends used to tell me they were glad we were pursuing the issue so they didn’t have to,” Aggarwal said. The case was dismissed seven years later.

At a popular coffee house where the group used to meet on Wednesdays, the regular clientele — including members of Parliament, journalists, theater actors and social activists — branded Aggarwal and the others as sodomizers until they stopped going there in 2008.

Today, six of the group’s original 18 members have passed away. Reliving those days is “emotionally exhausting” for Aggarwal, 54.

But the best thing about today's movement "is that it is the community itself that is fighting for its rights," she said."

III

Jaideep Deo Bhanj in "I participated in the first mass protest for gay rights: Sahni"
The Hindu, 7 September, 2018:

"One of the first crusaders credits LGBTQ activists for victory

In the sea of exuberant youth celebrating the verdict decriminalising Section 377 and making plans for the future, a senior citizen, P.S. Sahni stood out as for him, it was a victory that was in the making for 26 years.

The credit, he says, goes to LGBTQ activists who campaigned relentlessly over the past few years to make the Supreme Court sit up and take note of them.

Back in 1992

Getting slightly nostalgic, Dr. Sahni says, "I participated in the first protest for gay rights in the country". He recounts the slogan that was used in the protest. It was "Gays of the world unite, we have nothing to lose but our chains", he says with a bit of hesitation as he tried to jog his memory.

"It was in 1992 that 18 people were arrested from the Central Park in Connaught Place on the ground that they were about to indulge in homosexual acts. That arrest sparked of the first mass protest in

Delhi at the Police Headquarters in which over 500 people from different walks of life participated and sent out a message to the police not to harass people,” recalls Dr. Sahni.”

IV

Indian Express, Inuth Video (7 September, 2018)

PS Sahni Speaks About History of Section 377 in India

AIDS Bhedbhav Virodhi Andolan member Dr PS Sahni speaks about the birth of India's struggle for LGBT rights see:

<https://www.facebook.com/indianexpress/videos/ps-sahni-speaks-about-history-of-sec-377/1802043679833556/>



After the gay sex judgement was passed ABVA wrote an “Open Letter To Indian Parliamentarians To Get Section 377, IPC Repealed In Toto”.¹³

The open letter recorded that the Indian Government had informed the Supreme Court that it leaves it to the wisdom of the Court to decide the issue. Actually the entire ruling class parties abdicated their responsibility of addressing the issue through Parliament – which alone, and not the judiciary, represents the will of 1.35 billion people of India.

The slick high profile lawyers, counsels who appeared in the court and the extravagantly foreign funded NGOs buckled under judicial pressure without even a whimper of protest in toning down the original demand of complete repeal of Section 377, IPC as demanded by ABVA in the first ever challenge to the

constitutional validity of Section 377, IPC way back in 1994 in the case filed before the Delhi High Court.

ABVA urged the Parliament to immediately bring – as a first step – an Ordinance ordaining that the whole of Section 377, IPC stands repealed. The speed with which the Ordinance should be brought must match the speed with which the Ordinance on *triple talaq* has been surreptitiously introduced. Media reports in the last 4 weeks indicate that several same-sex couples are approaching High Courts of different states for relief and security in being allowed to stay together. They should not be forced to go through this ordeal just close on the heels of the Supreme Court judgement of 6 September, 2018.

The piecemeal relief provided by the Supreme Court to LGBTQIA community will certainly not alone resolve the long standing demands made by ABVA in 1991 – and towards which successive Central Governments of all hues have indulged in masterly inactivity.

We quote from one of the most respected LGBTQIA activists and academician Ashley Tellis – the conscience keeper of sexual minorities – who has suffered all his life on account of being open about his sexuality; the frequent loss of jobs is but one aspect of his being at the receiving end of the establishment:

“It just renders privacy rights to elite gay people. I’ve made this point again and again. Nobody wants to listen because of the mindless hysteria around the subject.”

“Privacy in this context is a classist idea. Only people who have a bedroom can have privacy. Hijras on the road who are often forced to have public sex for money to survive don’t have this privacy.

They are harassed by the police, their clients and the societies around them. This doesn't change anything for them and the rest of the LGBTQ community on the ground. People have bedrooms and privacy everywhere. They don't need a special law to change that. This is something those who are privileged exercise anyway. I don't think there will be any actual change on the ground.”¹⁴

The Supreme Court judgement refers to studies quoted by petitioners indicating the LGBTQI population to be about 7 to 8%. Now in a country of 1.35 billion people it translates to a population of 100 million people belonging to the sexual minorities. The youth constitutes 60% of this population. About time the political parties should appreciate that a population of 100 million people constitutes the second largest minority community in India next only to the Muslim community; and that the sexual minority community can influence, nay change the contours of government formation – both at the Centre and state level in future, nay as early as 2019. Future ministers in Indian Government could well include a Christian Lesbian; Muslim Gay; Sikh Queer; Tribal of Mongoloid race (from the North Eastern States of India) Transgender; Dalit (of Dravidian stock) Bisexual. This political formation could be the best bet for a secular, democratic regime. The political interests of the working class (workers, farmers) would need to be assured. The Pride marches undertaken by the LGBTQI persons from time-to-time could evolve after a long, long haul into a *Self-Respect Movement*. The transgender community (eunuchs) have led the way for the rest of the sexual minorities group; they have been in electoral politics for over two decades and several of them have won elections to become Mayors in towns/cities in India.



Just – just about – a peep into how the academicians/academic journals commented upon the movement. Due to space constraints just four examples should suffice:

1

“Gay Rights in India: A Discussion From the 1990s

The Discussion Map charts important debates from the pages of EPW.

In a 1996 discussion on gay rights in India, an article written by H Srikanth as a response to Vimal Balasubrahmanyam’s piece on the AIDS Bhedbhav Virodhi Andolan (ABVA) received responses from various authors challenging his critique of the gay rights movement and his views on homosexuality...

H Srikanth responded to Balasubrahmanyam’s article, questioning her “intellectual justification” of gay rights as having little “social relevance.” ...

Following Srikanth’s article, Sharmila Rege, Pulapre Balakrishnan, and A Suneetha responded.

Rege calls his article “homophobic,” and his reading of gay and lesbian movements “completely mistaken.” ... Rege points out that gay rights demonstrations had little to do with freedom of sex, and more to do with gay and lesbian identities being condemned by the heterosexual majority.

While agreeing with Rege on gay rights movements centred around the politics of identities and not sexual acts, Balakrishnan writes in

a letter to the editor that the attitudes of the public pose a greater challenge for gay rights than legal battles.

Suneetha also writes that Srikanth's stand comes "dangerously close" to expressing homophobia, and that the "normality" of heterosexuality is, in fact, a "highly constructed one."¹⁵

II

Abstract of Nicholas Tan's article "Was 1992 a Turning Point for Homosexuals in Contemporary India?" It was published online in *Sexuality & Culture, An Interdisciplinary Journal* in 2018:

"For many familiar with contemporary India's history of homosexuality, 1992 may be seen as a turning point. In 1992, activists protested against the infamous anti-sodomy law, Section 377 of the penal code, a provision which had been frequently employed by the police to harass the gay community. The public protest marked a historical point in the lives of the Indian homosexuals as the issue of homosexual citizenry entered public and popular discourse in contemporary Indian society. This paper seeks to establish the validity of 1992 as a historical point beyond the singular event of protest. It attempts to encourage one to consider the ways in which the increased political subjectivity of the homosexuals in contemporary India intersect with the historical emergence of the Hindu Right's ideological hegemony from the 1990s. The added lens helps one to seek how the political and the personal can come together to identify, and invite discussion on, the varying statuses of different homosexual groups, ranging from lesbians to Muslim homosexuals, both of which tended to be

marginally excluded from the emergence of a collective homosexual identity in the movement against Section 377.”¹⁶

III

Mayur Suresh in ‘The Right to be Public: India’s LGBT Movement Builds an Argument about Privacy’ published in *Australian Journal of Asian Law*, in 2019:

“In both their writ petition and in their report, the ABVA focus on two constitutional rights: the right to equality and the right to privacy. Their argument on equality is straightforward: that s 377 discriminates against people on the solely basis of their sexual orientation, and that there was no legitimate state interest in making distinction between homosexual and heterosexual sexual acts. Their argument on privacy is more nuanced. In the context of their writ petition about sexual activity in prisons, the right to privacy is not a spatial one. Instead, it is based on the bodily integrity and autonomy of the prisoner. It is for this reason that prisoners should both be able to have consensual sexual relations with one another, as well as be able to refuse or consent to HIV tests. It is for this reason that *Less than Gay* calls for a recognition of ‘the right to privacy as a fundamental part of the citizen's right to life and liberty, including the right to his or her sexual orientation’ (ABVA, 1991: 68). The ABVA articulates the right to sexual orientation as a part of the right to privacy. Here, the right to privacy is not about space, but it is fundamentally about bodily autonomy.”¹⁷

IV

After the Supreme Court judgement in Koushal had recriminalized gay sex in 2013 Ashley Tellis comparing the ABVA and NAZ wrote in *Hindustan Times* (12 December, 2013):

“In 1991, the AIDS Bhedbhav Virodhi Andolan, an independent, non-funded political movement that had begun in the '80s when the horror of HIV/AIDS had just begun to unfold, filed for the repeal of Section 377.

In 2001, the Naz Foundation, a foreign-funded NGO, filed a PIL watering down the demand for the reading down of Section 377 to exclude private, consensual gay sex.

It sought the help of another NGO, the Lawyer's Collective, and unofficial help from slick gay lawyers from yet more foreign-funded NGOs.

The differences between these two moments tell us the story of the LGBT movement, which became the “queer movement” in India.

The first was a committed, penniless, bedraggled group who were political, angry, seeing discrimination around HIV/AIDS first-hand and seeking to intervene. The second was a posh South Delhi NGO, which mushroomed into a ‘movement’ of elite lawyers armed with foreign judgments and NGO speak in lieu of politics.”¹⁸

The silence of the intellectuals, authors, lawyers and academicians in the last decade of the twentieth century vis-à-vis gay rights issue was no different from

their role during Mrs. Gandhi's Internal Emergency era (1975-77). Few rare brave exceptions of course existed. The dissenters.



Parliament – not judiciary – alone represents the will of the people

I would like to take the readers back to the apex court judgement of 11 December, 2013 by which the 2009 Delhi High Court judgement was overturned. Effectively the Supreme Court upheld Section 377 of the Indian Penal Code which criminalizes homosexual acts. Naturally there were popular protests – and not just by Lesbian, Gay, Bi-sexual, Transgender (LGBT) groups – all over the country and abroad. A large section of civil society appeared to be in favour of decriminalizing homosexual acts. Amongst the political parties and their allied groups, the Bharatiya Janata Party, Vishva Hindu Parishad, Rashtriya Swayamsevak Sangh perceived gay sex to be unnatural; as also the Samajwadi Party. The left parties and Aam Aadmi Party opposed the Supreme Court judgement; and parties in the rest of the political spectrum were maintaining a deathly silence on the issue. It was in this context that we released an open letter to Sonia Gandhi as she had publicly taken a pro-LGBTQIA stand.¹⁹

ABVA wrote to Mrs. Gandhi:

“...one writes to you to ensure that an Ordinance is brought forth decriminalizing homosexuality or get the Parliament to legislate on the issue at the earliest. The Union of India filing a review petition in the Supreme Court is an abdication by the Government of its primary responsibility of making and updating laws in consonance with the Constitution of India and changing realities. It is true that during

voting on any such legislation the arithmetic may not be in favour of the passage of the Bill. But this alone cannot be reason enough for letting a minority community to be left facing inhumanities. After all the solution lies in inclusiveness as articulated by Pandit Jawaharlal Nehru.

Your own father-in-law, Feroze Gandhi had brought a Private Member's Bill in 1956 titled *Parliamentary Proceedings (Protection of Publication) Bill* which was cleared by the Parliament. A large number of Private Members' Bills brought in Parliament are courtesy Members of Parliament from Indian National Congress. In the event of difference of views within your own party (the old guards within the 100 year old Congress party may have reservations) would you consider bringing a Private Member's Bill in the very next session of Parliament just before the 2014 general elections in your own name? Lastly the LGBT is not a miniscule minority as the 11.12.2013 judgement presumes. No authentic census has been conducted in India on the exact number but the number is likely to be close to 4% of the population, if one were to go by the studies done by Alfred Kinsey, an American scientist in the last century. There is no known reason to believe otherwise. This constitutes a sizeable number of potential voters for any party. Reports indicate that President Obama got re-elected courtesy a swing of this section of voters towards the Democratic Party in the U.S.A."



ABVA continued its campaign with public persons and those holding public offices. As soon as the Delhi Assembly elections scheduled for 7 February, 2015 were announced the BJP had projected Ms. Kiran Bedi as its Chief Ministerial candidate. We made efforts to highlight the homophobic views aired publicly and in the court while Ms. Bedi was the Inspector General of Prisons, Tihar, Delhi. In the letter addressed to Ms. Bedi:

“Your prejudices effectively ensured that the Jail inmates were denied access to condoms. Media reports at that time indicated that you consider homosexuality to be “abnormal” and would like to take all steps to give the inmates “a chance to be normal”. You had opined, then, that you would not hesitate to step up surveillance to “ensure” that inmates do not indulge in homosexual activity. Moreover you saw “no need” to amend Section 377 of the Indian Penal Code (IPC). To recapitulate what you said:

“I am still not reconciled to except homosexuality as a normal human practice. We need to undertake a massive education programme among the inmates so that I could at least give them a chance to be normal. The first step would be preventive, through an education programme. If that doesn’t work, the next step would be to increase surveillance.

“If that too fails, I would go in for increased counselling. Only after that would I consider anything else.”

You also said that supplying condoms “would amount to encouraging people to indulge in homosexuality. It would be like legalizing drugs.”

Constitutional lawyers at that time had dubbed your assertions about surveillance to be preposterous; and that it would be the death of liberty of prisoners.

It will be a bit too late as well as embarrassing for you to say that you have been misquoted, as the above quotes are from The Pioneer dated 21.02.1994 and the reporting is by Amit Prakash. The Pioneer's editor is a Rajya Sabha member courtesy BJP; the paper is pro-BJP.

You would recall that members of AIDS Bhedbhav Virodhi Andolan (ABVA) had an official meeting with your good-self in 1994 within the precincts of Tihar Jail and had given you a copy of "Less Than Gay" ..."

Our letter further questioned Ms. Bedi:

"Ms. Bedi, when you were planning to increase surveillance of inmates at Tihar Jail did you realize that you would be subverting the fundamental rights enshrined in the Indian Constitution available to all citizens of India including those inside the jail?"

We refreshed Ms. Bedi's memory by reproducing relevant points from the counter affidavit filed by her in the ABVA's writ petition in September, 1994:

"... there is no justification and legality for supply of condoms in the prison. Supply of condoms will promote homosexuality."

Outlining the steps taken to discourage homosexuality in jail the affidavit elaborated that senior level check at night is being taken; as also an Open Panchayat system which allows free interaction on development in the prison; and mobile petition box system to encourage anonymous information of all kinds of incidence of behavior.

Your affidavit betrays your ignorance on and prejudices about homosexuality as also your intention to undertake surveillance on the private lives of prisoners.

Ms. Bedi, do you still hold the same views on Lesbian, Gay, Bisexual and Transgender (LGBT) issues after a lapse of more than two decades?”²⁰



ABVA would ensure that the Gay Manifesto got highlighted whenever an occasion arose. On the International Human Rights Day on 10 December, 2016 ABVA reproduced the Gay manifesto in a piece published in *Countercurrents.org*.²¹ We emphasized that it is as relevant today as it was in 1991. The piece was written as legal efforts by heavily funded NGOs had not succeeded; though of course at that time a bunch of curative petitions were still pending in the Supreme Court. Even a modicum of justice had eluded the LGBTQIA Community till then. The Indian Parliament had blocked efforts of individual legislators made through the instrument of Private Member's Bill. Hope lay in the continuing struggle of the LGBTQIA Community.



ABVA was pleasantly surprised when *Countercurrents.org* decided to prepare a “Peoples’ Manifesto for Ecological Democracy” which was released on 15 August, 2020 hoping that it would act as an impetus for the future struggles of the people and provide a direction to the activists. Pertinently, it would serve the purpose of ‘WE, THE PEOPLE OF INDIA’ putting the Union Government itself to notice! ABVA hoped that the spirit in which the *Countercurrents.org* is preparing the manifesto should be no less than that in display while Karl Marx & Frederick Engels were preparing the Communist Manifesto.

We wish to point out that even the framers of the Indian Constitution bypassed the sexual minorities in India; on the other hand South Africa on achieving freedom forbids discrimination on the basis of sex, gender or sexual orientation in their Constitution itself. Even Nepal’s Constitution contains several articles that enshrine protections and rights for LGBT community. The Constitution of Ecuador banned discrimination based on sexual orientation in 1998. But in India the Parliament continues to dodge the issue till date. What a shame! Are sexual minorities not part of ‘WE, THE PEOPLE’?

The People’s Manifesto for Ecological Democracy demanded

“The rights of people with different sexual orientations – Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual needs to be respected; all the laws that criminalise or discriminate against the LGBTQIA community should be abolished. India should pass laws that allows marriage among same sex and LGBTQIA communities.”²²

How is this best achieved?

“The remedy against S. 377 lies with the people through their Parliament, and not in the courts.”

- Prof. M.P. Singh, Constitutionality of Section 377, Indian Penal Code – A Case of Misplaced Hope in Courts²³

On 5 September, 2020 ABVA wrote a piece “Indian Parliament Must Apologize for Stonewalling Debate on Gay & Lesbian Issues Since Independence”²⁴. We pointed out:

“We at ABVA were absolutely clear that ultimately it is the people’s representatives in Parliament who will have to address the issue threadbare – shedding coyishness aside – and give justice to the gay and lesbian community as also the transgender community who till then had not even got the identity of the third sex. This happened through the NALSA judgement delivered by the Supreme Court (SC) in 2014. True in 1994 ABVA had filed a petition in the Delhi High Court asking for inter alia striking down of Section 377 IPC in its totality. For seven years we campaigned with the petition all over the country to sensitize activists on the issue and enlist support. We urged all groups to file similar petitions in their respective state’s high courts. The idea was to ensure that a section of the media would disseminate ABVA’s message which might reach the Members of Parliament. Not even one Member of Parliament (MP) – not even the communists/socialists – raised the issue in that forum. On the contrary a few organization related to the communists were even actively opposing the issue of sexual minorities. However we continued with our attempts because we could not come to terms

with the fact that Parliament would refuse to even debate the issue since the time the country achieved its independence. We were clear that courts could at best provide a narrow, legalistic relief only.

Overtime we were sending letters to major political parties ahead of general and state elections with the ardent hope that the issues of sexual minorities would find place in their political manifesto. This happened to some extent only in the last general elections. We had even addressed open letters to Sonia Gandhi, Rahul Gandhi and Parliamentarians²⁵ since 2014. There was masterly inactivity on behalf of all of them. In all fairness Mr. Shashi Tharoor, MP brought a private member's Bill a few times in Lok Sabha during 2015 to 2018 to replace Section 377, IPC and to decriminalize consensual adult homosexual acts. Not surprisingly the Bill was not even allowed to be introduced in Lok Sabha principally by the vehement opposition of the BJP MPs. Overtime some noises in favour of gay community were made by Mr. Arun Jaitley, BJP MP, who opined that their human rights have to be respected. At least the issue of rights of transgender community have figured in Parliament in last decade or so and the Transgender Persons (Protection of Rights) Act, 2019 got passed; it is with the gay and lesbian issues that Parliamentarians cutting across all parties and ideologies have a problem. It is ironical that a country which boasts of Kama Sutra – which has a full chapter on gay sex – and which has been authored by an establishment person, Vatsyayana feels shy of discussing gay and lesbian issues affecting all aspects of their lives viz marriage, adoption, property rights; educational and job opportunities (full details in Gay Manifesto). Why, even Khajuraho temples – by all means Hindu and Jain ones – famous for their erotic sculptures show in full details the sexual act between two men and two women.

Under the Indian Constitution and Parliamentary Procedure and Practice there is no way a call attention debate can be disallowed on gay and lesbian issues. Only one MP needs to give a simple notice asking for such a debate to take place. In practice it is better if four or five MPs send separate notices. The Speaker / Chairperson can fix a day and time for the same. It is no one's case that the entire Gay Manifesto be accepted. If after 73 years of independence the Indian Parliament refuses to let such a debate take place where should the eighty million people belonging to sexual minority go for redressal? It may be recalled that the then Chief Justice of India while delivering the judgement modifying Section 377 IPC to exclude consensual adult homosexual acts from its ambit had taken a clear stance that the apex court would not be taking up the issues of marriage, property rights and so on. The minor concession by the court should not lead to complacency within the gay and lesbian community. The struggle for equality in all spheres of life – publicly and not just in private – must continue.

Occupy Parliament Street

The only option left for the gay community is to mobilize all civil society organizations, come under a common coalitional umbrella organization and Occupy Parliament Street indefinitely. All participants should be prepared for coercive action of the administration and the police. There is no substitute for struggle and non-party political action; this needs to be stressed on the second anniversary of the SC judgement.

Bob Dylan's inspiring lines come to mind:

*"... Come senators, congressmen
Please heed the call
Don't stand in the doorway
Don't block up the hall
For he that gets hurt
Will be he who has stalled
There's a battle outside and it is ragin'
It'll soon shake your windows and rattle your walls
For the times they are a-changin' ..."*

The government is being put on notice through similar sentiments expressed by 81-year-old poet Varavara Rao – now incarcerated in jail since 2018 albeit with a temporary relief in the form of interim medical bail granted in 2021 – in his poem. (quote)

*"The poet is by no means a lion
But a stream
It is in the nature of a river
Not only to leap from peaks but
Also to flow steadily in plains,
Circumventing the hurdles
Stopping at dams
And if time favours,
Breaking them down and move on
In branches and in canals...."*



After the Supreme Court judgement in *Suresh Kumar Koushal & another* (11.12.2013) recriminalized same-sex behavior. ABVA sent an open letter to the Indian Parliamentarians on 18 December, 2015²⁶. It noted:

“Ever since the Supreme Court of India re-instated Section 377 of the Indian Penal Code (IPC) in 2013, few amongst you have dared to take a pro-LGBT stance on the issue. Sonia Gandhi of Indian National Congress (INC) publicly stated:

“I am disappointed that the Supreme Court has reversed a Delhi High Court ruling ... the High Court had wisely removed an archaic, repressive and unjust law that infringed on the basic human rights enshrined in our Constitution...I hope Parliament will address this issue and uphold the constitutional guarantee of life and liberty to all citizens of India.” [*The Times of India*, 13.12.2013]

Rahul Gandhi expressed disappointment with the Supreme Court (SC) verdict on homosexuality:

“These are matters of personal freedom, I would agree with the High Court more on this matter.”²⁷

The Communist Party of India (CPI) leader D. Raja asked the NDA Government to initiate the process of bringing suitable amendments to Section 377, IPC which was declared as constitutional by the Supreme Court.²⁸

The CPI(M) Election Manifesto, 2014 stated “Amend Section 377 of the Indian Penal Code so that it does not criminalize adult consensual relationships irrespective of sexual orientation.”²⁹

The Aam Aadmi Party was:

“...disappointed with the judgment of the Supreme Court upholding the Section 377 of the IPC and reversing the landmark judgment of the Delhi High Court on the subject. The Supreme Court judgment thus criminalizes the personal behavior of consenting adults. All those who are born with or choose a different sexual orientation would thus be placed at the mercy of the police. This not only violates the human rights of such individuals, but goes against the liberal values of our Constitution, and the spirit of our times. Aam Aadmi Party hopes and expects that the Supreme Court will review this judgment and that the Parliament will also step in to repeal this archaic law.”³⁰

Terming the judgement as “disappointment”, TMC MP Derek O’Brien had said, “we are living today in a liberal world and the judgement is disappointing.”³¹”

ABVA further observed:

“While a few legislators have taken a bold stand outside Parliament even recently in 2015, there is no action within the precincts of the Indian Parliament. Arun Jaitley and P. Chidambaram while speaking at the *Times Lit Fest* in Delhi on 28.11.2015 (*The Times of India*, 29.11.2015) lamented the stance of the Supreme Court of India in reinstating Section 377, IPC. Shashi Tharoor made it be known through his twitter handle that he was moving a private member’s bill on the issue but he refused to give details of the bill itself. At a time when the Government of India puts up all bills in public domain before moving these in Parliament it would be more democratic if

Tharoor's bill is shared and opinion of all stake holders taken as also of those who are exerted upon the issue for over quarter of a century.

We, at ABVA, had sent an open letter to Sonia Gandhi about two years back for initiating a move for a private member's bill on the issue. Now that more than seven Members of Parliament (M.P.s) of different parties and also the Aam Aadmi Party (AAP) has supported the repeal of Section 377, IPC it would be appropriate that these M.P.s move either individually or collectively for a calling attention motion in Lok Sabha/Rajya Sabha where the issue should be discussed thread bare; apprehensions of parties like Samajwadi Party (who are opposed to the move) should be addressed. Also since the LGBT number could be as high as 4% of the population it would not just be sufficient to repeal Section 377, IPC but also to discuss and debate how this section of society has silently suffered principally because the democratic institutions were reluctant to address their concerns.

Generally a calling attention motion could last for up to a few hours and may even get extended up to the next day; the practice is to ensure that representatives of all parties speak. Since legislators belonging to INC, BJP, CPI, CPI(M), AAP, have already taken a stance, and also if they sign a calling attention motion notice, the Speaker in Lok Sabha and Chairman in Rajya Sabha would have no option but to permit such a debate. Both the nation and the Indian Parliament owe it to the LGBT community all this and much more.

In the Rajya Sabha MPs from various political parties like Derek O'Brien (TMC); D.Raja (CPI); Sitaram Yechury of CPI(M); Arun Jaitley (BJP) and Mani Shankar Aiyar (INC) could file notices with

the Chairman, Rajya Sabha for ‘calling attention motion’ urging the house on a matter of urgent public importance. Even in the Lok Sabha elected representatives like Sonia Gandhi, Rahul Gandhi, Shashi Tharoor of INC as also elected representatives of AAP could file notices with the Speaker of the Lok Sabha for a similar debate. Unlike in the years 1828, 1837-38 and 1860 when colonial masters shied away from public discussion and left ambiguities in the law, the present day law makers in the Indian Parliament must ensure that history is not repeated. That practices like *fellatio*, *cunnilingus* should be explained, discussed and debated. Finally the law makers should ensure that adult consensual homosexual acts in private are decriminalized. It should be expressly discussed whether lesbianism was ever an offence under Section 377, IPC and if it was then it stands decriminalized. ABVA has always felt that ambiguity in law posed a real threat to the lesbians in India.”

ABVA suggested:

“When it suits the legislators the Indian Parliament never shies away from doing a *Shahbano* on the apex court judgement or passes legislations to specifically overturn orders passed by the apex court. In effect Parliament would be implementing the Supreme Court 2013 judgement by repealing Section 377, IPC.

Both the Supreme Court and Indian Parliament should stop throwing the ball in each other’s court! (no pun intended)”

The LGBTQIA struggle will continue till Parliament debates – nay concedes – Gay Manifesto 1991 New Delhi, India. The LGBTQIA community in India has a long way to go for its eventual liberation. No power on earth can stop it from

the recent march forward. It shall overcome all obstacles and win. Undoubtedly. That day true deepening of democracy in India would then have taken place. That is the hope. And dream too. There is no room for complacency. Revolutionary poet Paash has stressed this in his poem titled ‘The Most Dangerous’ (quote):

*“... To be filled with dead peace
Not to feel agony and bear it all,
Leaving home for work
And from work return home
Most dangerous is the death of our dreams...”*



The more things change the more they stay the same. ABVA had demanded that condoms be provided to prisoners in Tihar Jail, Delhi; the same was prayed for in our writ petition filed in DHC in 1994 wherein Section 377 IPC was sought to be repealed in toto.

Till date condoms have not been made available to the jail inmates! Our recent efforts in 2022 in this direction are detailed at:

<http://aidsbhedbhavvirodhiandolan.blogspot.com/2022/02/prisoners-denied-condoms-in-tihar-jail.html>



The Indian Supreme Court has apologized to the gay community through its judgement in 2018. About time the British Government should apologise to the gay community in India and in all the countries it had colonized and where anti-sodomy laws were imposed. ABVA has taken a public stand on the issue. The same is detailed in our blog post:

<http://aidsbhedbhavvirodhiandolan.blogspot.com/2022/09/indian-supreme-court-apologized-to-gay.html>

Shobha Aggarwal

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PART II

Less than Gay

— as it was published
originally

The 2nd Edition of *Less than Gay* is being reprinted and published as in its original edition with only corrections of typographical errors undertaken; uniformity in formatting and font size increased for readability.

Less than

Gay

A
CITIZENS'
REPORT ON
THE STATUS
OF
HOMOSEXUALITY
IN
INDIA

AIDS BHEDBHAV VIRODHI ANDOLAN

(AIDS Anti-Discrimination Movement)

Nov - Dec

1991

New Delhi

INDIA

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Dedication

This report is dedicated to the numerous gaymen and lesbians who shared their intimate experiences, fears, and longings with us. The faith and trust they reposed in members of the group made our study possible.

“The victim who is able to articulate the situation of the victim has ceased to be a victim, he or she has become a threat.”

James Baldwin, Black gay, American writer,
The Devil Finds Work (1978).

1. WHY THIS REPORT?

Many people deny that homosexuality exists in India, dismissing it as a phenomenon of the industrialised world. Others acknowledge its presence but condemn it as a capitalist aberration, a concern too individualistic to warrant attention in a poor country like ours. Still others label it a disease to be cured, an abnormality to be set right, a crime to be punished. The present report has been prepared with a view to showing how none of these views can stand the test of empirical reality or plain and simple common sense.

The emergence of AIDS as a major public health crisis has had a devastating effect on gay people in most parts of the world. Gay people have been blamed for the spread of the disease, condemned as sinners deserving to die, and denied safer sex information vital to their survival. Like women in prostitution, professional blood donors, and intravenous drug users, gay men and lesbians stand already marginalised in relation to the law, the medical establishment and the police. As a result, they are easily scapegoated and blamed for the advent and spread of AIDS. *Though there is no inherent link between AIDS and homosexuality, it has become more necessary than ever before to understand the status of homosexuality in our society.*

What is homosexuality? Is it a distinct sexual experience confined to a small minority of the population? Is “gay” a Western concept, an upper class obsession? How is homosexuality linked to heterosexuality, to the institutions of marriage and family? Why does it become a cause for ridicule? What do Indian culture, heritage, religion and literature say about it? How does the modern Indian state attempt to regulate homosexuality? What is its status in law and medical science? In the eyes of the police? Can a right to privacy be read into the Indian Constitution and deployed to protect homosexual sexual acts? What are the human rights violations experienced by gay men and lesbians? What is gay life like for different strata of people in Indian society?

Few coherent answers exist to these questions. The deep stigma that attaches to homosexuality keeps these issues from being publicly discussed in any meaningful way. *Our report is an attempt to define an agenda for a public debate around homosexuality in India.*

Brief Background of ABVA

The members of *AIDS BHEDBHAV VIRODHI ANDOLAN* (ABVA) have been running a free dispensary amongst women in prostitution at G.B. Road, Delhi's red-light district, for the last three years. The team includes Dr. J.P. Jain (Nagrik Mahamari Janch Samiti), Lalitha S.A. (Joint Women's Programme), Shalini SCN (Indian Social Institute), Jagdish Bhardwaje, founder Secretary, Blood Donors Welfare Association (India), a professional blood donor of ten years' standing, involved for the last six years in the struggle of professional blood donors, Siddhartha Gautam, advocate, Delhi High Court, Arun Bhandari (Ankur), and Dr. P.S. Sahni (Jagat Mata Kusht Ashram).

ABVA got involved in AIDS activism in 1989 on hearing from women in the red-light area that doctors from the All India Institute of Medical Sciences (AIIMS) and the Indian Council of Medical Research (ICMR) had forcibly tested them for HIV (the virus thought to cause AIDS) with the help of the police. ABVA protested this action, asking that good quality condoms, humane treatment and rehabilitation schemes for HIV positive people be made a prerequisite for any government screening for HIV.

Our group was instrumental in stalling the Draconian AIDS (Prevention) Bill, 1989 through petitions in Parliament, public meetings, protest actions and networking both in India and abroad. As a result, the Bill now lies for review before a Joint Parliamentary Committee.

ABVA has organized several protests against the government's policies on testing, confidentiality, and discrimination linked to AIDS:

- * On 28 February 1990, a demonstration was organized at the ICMR headquarters, New Delhi, to protest against the refusal of doctors at AIIMS to operate upon an African envoy with AIDS.
- * On 30 November 1990, we staged a protest demonstration at the head office of the Medical Council of India (MCI), urging it to remove from its Medical Register the names of doctors who refused to treat people with HIV/AIDS.

- * On 18 March 1991, ABVA protested outside the head office of the New Delhi Municipal Committee (NDMC) following the refusal by the NDMC Hospital at Moti Bagh, New Delhi, to treat children with thallasaemia who had contracted HIV through blood transfusions.
- * On 7 August 1991, a 500-strong sit-in was organized at AIIMS following refusal by doctor at the premier medical institute in the country to conduct a delivery on an HIV-positive pregnant woman. Solidarity for this action was shown by independent activist groups abroad who staged protests at Indian foreign offices in five different cities in Europe and America on 13 and 15 August 1991.

All throughout, ABVA has tried hard to broad-base its work by mobilising other voluntary groups and community people including people with leprosy, women in prostitution, women from slums around Delhi, and gay people. We have also regularly met with concerned officials of Delhi Administration and the Union Government, and submitted memos to relevant authorities. With the help of Shobha Aggarwal, an activist lawyer, we have been able to offer free legal assistance to women in prostitution who were arrested in 1990 under the Juvenile Justice Act.

ABVA has also brought out two citizens' reports to date – “Women and AIDS – Denial and Blame, A Citizens' Report on AIDS in India,” November 1990 (in English and Hindi) and “Blood of the Professionals – a report on the exploitation of professional blood donors by the blood banking system in India,” July 1991, (in English).

The Present Report

While preparing this report, our group went through a long educational process, reading, interviewing, discussing, and arguing about homosexuality. This was an area about which many of us were ill informed and even prejudiced to begin with. Our conversations with a number of gay men and lesbians from different backgrounds revealed the richness and variety of gay life as also the fear and vulnerability around it. We worked systematically to bring to the surface our own discomfort, myths and queries about sexuality in general and homosexuality in particular. In a short time, we found, the myths were easily demolished. If this report can expose the silly lie that homosexuality does not exist in India, or that gay people are a species from a different planet, we will feel our efforts rewarded.

Professionals hold the key to social change and their views and interventions can influence ordinary citizens. Accordingly, we tried to elicit a response on homosexuality from academicians, doctors, lawyers, women's groups, human rights organisations, politicians, bureaucrats, police personnel, and others through letters and personal meetings.

While gathering printed material on the subject, we found little definitive information available on the Indian situation. At most libraries, we would reach a dead end and suspect the operation of some sort of "censorship"! For example, the copy of the original Kamasutra, which has a chapter on homosexuality, was discovered to be loaned out for the last four years by the Delhi Public Library to none other than the Union Health Ministry. Library staff at several places showed great embarrassment at our requests for material pertaining to homosexuality. Dr. Gulab Khan, librarian at the Information Centre, Connaught Place, New Delhi gave us much support and encouragement. Malini Ghosh, Kai Friese, and Parveen Sikand provided invaluable assistance on the computer.

ABVA views homosexuality (and heterosexuality) as a political issue. We will strive to get consensual, adult homosexual acts decriminalised and fight for the right of gay men, lesbians and other "sexual minorities", like hijras, to enjoy equal benefits of the laws on marriage, inheritance, adoption, and privacy, among others. We feel that a clear and unambiguous stand should be taken by political parties and civil rights organisations on the human rights of gay men and lesbians. This alone can root out police harassment, blackmail, violence and other forms of discrimination from their daily lives. Gay and non-gay people alike also urgently need relevant, non-moralistic safer sex education in the context of AIDS.

How much longer will the British-framed law on sodomy be tolerated by us? The Indian Lepers' Act, which virtually criminalised leprosy patients, was enacted by the British in 1898 and eventually removed from the statute book in 1984. When will the Indian State recognize the equal rights of "sexual minorities"? Given the traditional acceptance and even celebration of same-sex eroticism in Indian culture, shouldn't India be the focal point of a world-wide gay movement in the future?

2. GAY LIFE IN INDIA

Much has recently appeared in the media about the “new assertiveness” of gay life in our society. It is widely assumed that “gay” is a phenomenon new to India. The following chapters will document some of the prejudices embedded in law, medicine and religions, and social responses of intolerance and indifference to homosexuality. However, it cannot be assumed that just because homosexual behaviour has been proscribed or considered undesirable, it does not occur or that homosexuality exists only in hidden, guilty ways. The story of homosexuality in India is certainly not an unrelenting tale of repression and woe. Numerous gay men and lesbians reveal varied, often rich forms of gay life have long existed, and continue to flourish in this country. A gay writer in Calcutta, who finds distasteful the sudden shrill “discovery” of homosexuality, even observes that, “it is the pervasive norm in our culture.”

It is easy to find the existence of the entire gamut of same-sex intimacies in India – intense friendship, romance, and companionship between people of the same sex; sexual interactions not perceived by the partners as a basis for defining their identity in terms of sexual-orientation; and homosexual sex and emotional involvement self-consciously recognized as a gay identity. When we employ the word “gay” we do not mean to reduce these rich and varied erotic spaces into a medical model of “heterosexual,” “homosexual” and “bisexual” behaviour. We use it consciously both as a description of people who see themselves as gay and as a sensibility encompassing the entire area of same-sex eroticism. We feel that “gay” should be used as a politically desirable intervention in a context of state (legal and medical) regulation of homo/sexuality.

Gay people, like non-gay people, vary enormously in shape, size, appearance, occupation, viewpoint and self-perception. There cannot be said to be any single Homosexuality, as gay men and lesbians are not a coherent, easily definable group. Differences in region (including rural/urban ones), religion, and economic class make for widely divergent experiences and attitudes regarding marriage, same-sex eroticism and individual identity. There is, therefore, no such thing as “a gay”. Certainly, also, there are vast differences between gay men and lesbians in the way they experience and think about their sexuality. No consensus exists (as yet) among gay people on issues such as the desirability of marriage,

cross-dressing, social roles, sexual roles, necessity of being public about their sexuality, etc.

Given below are some life-stories of gay men and lesbians as told to members of ABVA or excerpted from magazines. We were able to document more stories about men than women, an inequality which reflects the continued invisibility of lesbian (and, in general, women's) experiences, something we have been only partially successful in rectifying. These stories are not necessarily representative of the vast realm of same-sex eroticism in India. They may however provide some glimpses into the kinds of gay life led by some of our citizens.

1. Till Death Do Us Part

“We met nearly ten years ago. She was working as our acting hostel warden while I was training as a paramedic in a medical college hospital in Delhi. Initially, she was affectionate towards me and would often call me to her room after the day's work was over. I was about ten years her junior. I had heard that she was lesbian and had had a steady girlfriend who had since left her. She stood out from the others because of her “male” appearance – jeans, short haircut and mannerisms.

“I developed a liking for her and we eventually became good friends. At her suggestion I started to cook meals for both of us in her room itself. This ensured us the privacy we badly wanted as we did not now have to go to the hostel dining-room. She expected me to do the household work – room-making, cooking, cleaning, and washing clothes for her. She would insist that I keep things ready for her when she returned from her official work in the late evening hours. I readily complied because we developed mutual love. She would however always boss around like the men do in our society. I was over-worked because as a student I also had my studies to pursue.

“We had developed physical intimacy in the form of kissing, petting, hugging, breast-sucking, fingering, and cunnilingus. She would also attempt to have penetrative sex with her erect clitoris. Our lovemaking would continue till she got an orgasm. We would go out together for movies and dinner parties and make love in the night. Sometimes we would smoke and drink alcohol. She would

however resent it if I as much as made attempts to be friendly to males in a healthy way. She was very possessive of me.

“After I graduated and started to look for a job, we decided to get married since we could not live apart any longer. But would our family members, friends and co-workers accept our decision? Would our relationship get social and legal sanction? We were riddled with doubts and I lacked the confidence and courage to take such a step. Yet we felt we should declare to each other that we were married. One evening we went to a mandir and got the blessings of the deity. When we returned to the hostel, she applied ‘sindhoor’ on my ‘mang’. It was the happiest day for us. We never informed anyone else about our mutual pact.

“Things went on well for a year. I got a job and became economically independent. One day, on my return from work, I found her in a compromising posture with a young girl in her room. She had been drinking liquor but was otherwise quite conscious. When I protested, she rebuked me and turned me out of her room.

“From then on, our relationship soured. I felt cheated. I even attempted suicide, leaving a note written in my own blood to the effect that I loved her and she had ditched me. I was unconscious for three days following the suicide attempt. But I revived. My parents had to bribe the police to get the medico-legal case “withdrawn.” Luckily, the press did not come to know of this incident. I left my job to work in another set-up. My family members were very supportive and that provided me with the strength to go on. The pain and agony of it will always linger on in my memory.

“I must add that every year there are at least three to four lesbians who can be counted in the batch of freshers at my alma mater. I have suffered a great deal but still have no answers to some crucial questions:

Why can’t two girls get married? Why does society not recognize, support and sanction lesbian relationships? A heterosexual relationship may also sour like ours did. But there at least society is aware of marriage and break-ups. In our case, the most traumatic thing is that the world is neither aware of our “marriage” or of the end. I had to face the pain more or less by myself. Many other women

like me must have attempted suicide and even succumbed to such attempts. How many more must undergo this trauma silently? And why?"

(The writer adds: "I recently became aware of ABVA's activities and read its two documents "Women and AIDS" and "Blood of the Professionals". I could muster up the courage to write my experience because I know an ABVA member well and respect the member's involvement in voluntary work.)

2. A Tag Like Any Other

Barry John, 42, a well-known theatre personality in New Delhi speaks about being gay in the capital. An Englishman, he came to India 20 years ago and after a stint in the south settled down in the capital, where he runs an amateur theatre group (Theatre Action Group, TAG) that stages English plays. We present an extract from his account, as told to Sunday ("The Love that Dare not Speak its Name", 31 July, 1988), because few people of his class in India have spoken publicly and so candidly about being gay:

"At school in England, I was popular with the girls, was called a Cassanova and even had a steady girlfriend. Initiation into gay life came through a drama teacher who was heading a three-year course I took. I was very green then and he began to take me for excursions to Leeds where there are a number of gay pubs. It was there I met one or two attractive, nice men and spent weekends with them. This is the period that the duality in my life began.

"In 1968, I came to Bangalore to teach English on a salary of Rs. 250 a month. When I was down south, I had relationships with both men and women. I suppose I was officially heterosexual till the time I came to Delhi in 1970. The gay life in Delhi is very different from what I had seen in England. There are various levels of homosexuality here. There are the unofficial clubs for the upper echelons as the one in the house of a famous fashion designer. It is a world of superficiality, all hyped up – I would describe it as frantic. Then, there are those who like to dress outrageously and indulge in exhibitionism. I am very different from all these people and don't like attracting attention through flashy clothes.

"As far as I am concerned. I have reached an age when sex no longer remains a major part of my life. As for my preferences, I suppose that I would not go in

for a partner older than me. I have never preferred older men. The youngest boy who lived with me in Delhi was 17 years old.

“All my friends are Indians and I find their acceptance of my sexuality really nice. They all know that I am a homosexual – I don’t care to hide it or keep it secret from them. Perhaps, acceptance is one of the facets of Hinduism, which is all embracing. The fact that I am homosexual has never affected either my personal or working relationships.”

3. Rahul’s Story

“In my tenth class, I fell hopelessly in love with a boy one year my senior with an incredible body and classic Rajput good looks. We were buddies for a long time and then started flirting and making jokes about how attractive we found each other. The jokes started getting serious. One evening we were at his house and were lying on his bed and talking. The next thing I knew we were hugging madly. We took each other’s clothes off and touched for hours. Our affair continued for a year. He always felt guilty after sex and would go to his family mandir to pray. I would feel a little guilty on seeing his guilt, but felt largely happy. Emotionally we were close as any lovers. We wrote love letters, had passionate telephone conversations much to the astonishment of our families. In recent years he got married. When he talked to me about it, what came through was his terror of social disgrace. Right now he is being a good Rajput son with a wife and maybe kids – goes to the mandir for Gita readings – in short, living the classic life of the closet gay. His family will probably never know how scared he is of their rejection.” (*Trikone*, May-June 1989)

4. The Marriage Trap

“Once upon a time I had a close physical friend. We loved each other at many levels. A change came over him as it became more and more apparent that he could not avoid an arranged marriage. The end result of it is that he has a life that is crushing him mentally. His wife, who is a great person, feels the strain and does not understand why. He never drank, until yesterday, and the day before, and the day before. And all of the tomorrows, too, I fear.

“I got over our break-up and adjusted. About the only joy I see on his face is when he comes to visit us and sees that I am happy. Hard, cruel realities. I should have had the guts as the older, wise one, to have said, “Let’s put our faith in each other and move, get away from the relatives and make a new life.” What are we going to do to help others escape from the same trap?

“On a different note, gays love a green India. We must each be able to plant a few trees.” (A.P., Vizianagaram, *Trikone*, Nov-Dec 1989)

5. Life Is Gay

“I live in a small district of eastern Madhya Pradesh. I teach at a government polytechnic. Whenever I disclose my gay identity in front of others, I get a tremendous response from them, even offers of sexual flings! The boys in my neighbourhood have a big crush on me. I think they like my style and way of conversation. I have decided not to hide my gayness. I have become frank enough to express my thoughts openly in front of my non-gay friends.” (Aseem Tiwari, *Trikone*, Nov-Dec 1989)

6. Alone in Mizoram

“After a lot of thinking, I have come to a conclusion. I have been alone and single in the love, sex, etc., department for 20 years. I can see that I am living a bloody big lie but I can’t really come out because of various factors. So I am going to ignore my love, sex areas and I will put all my energies into my work. If I could have lived for 20 years without a lover or boyfriend, I know I can live for another 20. I have my yoga, exercises, and work to keep me busy. Until last year I was desperate to have a lover or boyfriend for both emotional and physical support, but I have reformed from this year. I am going to be gay forever but I am so very discouraged by the environment around me that I have decided not to worry anymore. I have found a strange peace and a deep sense of satisfaction knowing that other gays are going to be shown the right path (accepted by society, even if partly, free from AIDS, etc.). As for me, I want to discontinue my correspondence with you all, and I hope you will understand. I may find someone very special somewhere in the future and with this I end my letter. Goodbye.” (G.H., Mizoram, *Trikone*, January 1988)

7. Anamika

“Referring to your question in the editorial about why women who have some choice do not resist marriage. The answer is isolation and loneliness. Conditions in India being what they are, you feel you are fighting a battle in isolation. Any cause, whatever its worth, is not worth fighting in isolation. Many of us enter into relationships with women in hostels during student days. Once these break up, and most do for the obvious reason of marriage, then how are we to sustain ourselves? In fact nearing the forties, I no longer feel anything is worth the loneliness and isolation I have faced in the last twenty years.” (M.A., letter to *Anamika*, June 1987)

8. Against nature?

Ishwar Kale, a 32-year old industrial worker from Virar, Bombay, narrated his situation in Marathi to The Sunday Observer: “They think we are enemies of prakruti (nature) and of sanskruti (culture) ... people refuse to believe that IT can work between man and man. After I started working in a factory, one man was so attracted to me that every morning in the crowded Virar-Churchgate train, he would sit or stand close to me and make love. It went on for two years and ended abruptly when he changed jobs. I have never met him again. I have had many such relationships, with the rich as well as the poor, with many strangers and some regulars. But I never felt there was anything wrong with me ... I have two children now but I have not let my wife or any other relative know that I lead an energetic gay life outside my family. Initially, my dual life caused me untold trauma but now I have got used to it.” (July 29, 1990)

9. Love Against All Odds

“One early winter afternoon I had come home with my friend Kuni. Mother was next door chatting as usual. The servant woman said that there was a pot of extra hot water on the stove if I wanted a bath. When she turned back to her cooking, I looked at Kuni. Between us we lifted the brass pot off the fire and poured it into the tank of cold water in the bathroom.

“I slid the little bolt on the door and we took our clothes off. For a few minutes we stood fondling each other and then my friend poured some of the hot water

still in the brass pot over the floor. We lay down and did what I now know was the number 69. It was fantastic. It was not the first time, but maybe the hundredth time, and every single time was different, good, positive, and exciting, both physically and mentally.

“We were still on the floor in that position when a terrible noise erupted as the door came crashing down and nearly smashed Kuni’s head. We both jumped and looked with horror and total fear at my elder brother. The servant woman appeared next to him and after a few minutes of his screaming, my mother came rushing in. He turned and bolted the door...

“My mother and the servant woman stood in total silence as my brother cursed and cursed. The words he used I hardly knew the meaning of. My friend handed me my clothes and I put on what I could. My brother then stepped forward and grabbed her by the arm and dragged her out of the bathroom, and opening the back door, shoved her outside. He then returned and grabbed me and like a wild animal beat me until I fell on the floor. My mother tried to stop him, as did the servant woman, but they only got shoved out of the way. He picked me up by the hair and beat me on the stomach, by the crotch, and the breasts. I fainted.” (P. Parivaraj, *Shakti Khabar*)

10. Well of Loneliness

The following letter was written in Bengali by a girl living in Siliguri, North Bengal to a columnist in a Bengali weekly. “For the last 3 years I’ve been in love with a girl. She also loves me a lot. When we first met, it appeared like a friendship, but one day things went wrong – she hugged me tight and a tingling sensation ran all over my body. I tried to keep a safe distance from her but she wouldn’t let me. She came closer and closer. When we spent nights together, she would lie on my breasts and I would be lost in ecstasy. We began to find each other irresistible and craved for more. Incidentally, I’d like to state that I had lesbian relationships with a lot of other girls before and all of them found me irresistible but for one reason or another I had to ditch them. Krishna is different from the others. When she comes to me, all my worldly worries end. She fills me with joy. The idea of separation pains a lot. We would like to settle down but the question is, how? Since we are both girls, society would look down on us as perverts. The thought drives me crazy, sometimes I think of suicide. Shall we

pass the rest of our lives in such helpless agony? Our relatives don't like the way we mix with each other..." (*Gay Scene*, Nov-Dec, 1980)

11. Married and Gay

"As I see things now, most gay men in India get married off and fool themselves (besides their wives) then try to give the impression of living happily ever after. Then they advise other bachelor friends to marry. No small wonder, more than half the gays who cruise in my area are married. I know of at least 4 who married less than a year ago and are back on the cruising scene, almost every night. Seriously, no laughing matter, at least for the wives.

"Being born in India, with a penis between the thighs, is being a male, so to say. I find so many cruisers, insisting that they are "men" (giving the impression of being heterosexual) who would prefer to shove their hands behind their backs or in their pockets, and expect you to do the rest. But the fact that he prefers male sexual delights is something he will never admit. To me that doesn't make him a "mard". For him, being on top is being the achiever, the real man. Frankly, I am on top as many times as I am on my back and enjoying every minute of it. Yet I am no less a man.

"In the West you call them married, bisexual men who lead secret, double lives. Over here they are called Indian married men. Give them the opportunity of staying away from the family (they won't). Living and making it alone (they can't). Standing on your own feet and making your own decisions (not preferable). They would rather live in daddy's house, mummy's shadow (ask their wives) or run to grandpa for support and advice. That's being independent for them and they will still call themselves a "man" without batting an eyelash.

"This is directed mainly to married gays in joint families. I am sure 90 per cent of those I have met fit the bill. Prove me wrong – and I'll call you a man (since it pleases you!). (By "Jason" from Nagpur, *Shakti Khabar*, Jun-Jul 1990)

Men Who Have Sex With Men

12. Prem is 26, married with a young son. He works in a large family business in Calcutta, where the family are prominent members of Calcutta society. He

remembers his first sexual experience with another boy at the age of 13 fondly. He has continued to have sex with other men, even after his marriage, albeit less frequently because of the lack of opportunity. His sexual interactions with other men have always been fleeting, “pick-ups.” He has never wanted to form a relationship with another man because this would be disastrous for him in terms of his family and his social standing. He would prefer not to be married. He doesn’t love his wife, but performs his duty. (courtesy: *Shakti Khabar*)

13. Indu is an auto-rickshaw driver in Poona where he lives in one of the small shanty villages on the outskirts of the industrial area. He is married with four children. He says that sometimes he just has to go out and find a man to have sex with, although he is happy with his wife. This usually happens about once every two months, and he feels that he can’t control his desire. He finds men at the many contact points around the city. He doesn’t call himself a homosexual; the word gay he doesn’t understand, not having access to English; nor does he see anything wrong with what he does. He is “just messing about”. The terms homosexual or the bisexual cannot refer to him, he believes because he is married with children. He remembers his first sexual experience with his uncle back in his home village. He was 12. (*Shakti Khabar*)

14. Arijit is a student in New Delhi, 19 years old, from a well-to-do family in the Diplomatic Service. He calls himself gay, and would like to “come out” to his family, but is deeply concerned about their possible reaction and rejection of him. They might cut him out of the family and he would lose everything! He has always known about himself ever since he can remember, always attracted to other boys. His first experience with another boy was when he was 11. Now he visits the various “gay” haunts around New Delhi where he can find “plenty of action”. (*Shakti Khabar*)

15. Ranjan is a male prostitute, a young man of 16 who plies his “business” in central Madras near the railway station. He has done this ever since he was 13, when he ran away from home because of the beatings of his father. He never wants to go back home. He says that he enjoys his “work” because it gives him lots of money, even though sometimes his clients can be rough. He is saving money to buy a small business. He doesn’t call himself a homosexual, even though he enjoys the sex. It is only business. (*Shakti Khabar*)

16. Sweeping Statement

Arun lives with his lover Kamal near Dadar station in Bombay. They have lived together as lovers for the last five years. Both work as municipal sweepers. That is how they met. Both had had sex with other men prior to meeting. They say they want to stay together as lovers. They don't consider themselves as different. They don't play husband and wife roles thinking that rather silly as both are men. Neither reads English nor speaks it, having left school at 13. (*Shakti Khabar*)

17. Intimacy Without Orgasm

Chandrakant, 22, lives in Shahdara and works with a voluntary group in New Delhi. The following is his account, told in Hindi to a member of ABVA: "I have often felt an attraction towards boys and have even experienced some sexual relations with them. But I don't think of myself as a homosexual. Actually, I don't agree with what the word means. Tell me, if I have an intense, psychic friendship with a girl, would I be called a heterosexual? If you mean by the word homosexual a certain sensibility (*bhav*), then I would agree I am one. I have many intense, intimate friendships with boys. I like being with them, touching them, sleeping next to them. But perhaps I still have a hang-up about accepting myself as gay in a sexual sense.

"I have just returned from Chappra, Bihar. There I came across poor, young boys who earn their living by dancing like girls at weddings. Many of them also have sex for money. Because of the feudal environment in Bihar, there is a lot of coercive sex, including forced homosexuality. While I was there, I also befriended an 18-year old boy who was always being teased by his friends as *chhakka*. One day I asked him why people called him that name. It was only when I told him that I was one too that he opened up; he was surprised that I was one. "You are from Delhi, there is no dearth of girls there, how come you are a homosexual?" he asked. Now married, he admitted that he would still prefer homosexual sex. "Even now I feel an intense urge to see the friend with whom I had a long relationship before I got married, to touch him. But I try not to approach him. If I go to him, maybe he will feel that I am unmanly (*namard*) and that I am not happy with my wife. I even don't try to have anal sex with my wife for she will taunt me, that I am a *ladka baaj* (homosexual)."

“There is a boy in my colony who is very girlish in his mannerisms. Once, a group of girls were teasing him – you have all the qualities of a girl! I asked them, “Why do you hate yourself so much? Instead, you should feel happy that a boy has come into your category.”

“For me, friendships are the most important thing. When my friends get interested in girls, they have no time for friendship, even if we have known each other since childhood and they have known the girls only for a week. Marriage will surely be worse! How can it be called normal then? I think that relations between boys are more stable than those between a boy and girl. Homosexual friends can understand each other better. A friend of mine, Dilshad, recently attempted suicide because he could not marry the girl he loved. She belonged to a different religion. Poor boy, he was in such a bad state. I tried to console him and told him not to be so dejected. What is there in sex? One can do that with anyone; real love, on the other hand, can only be homosexual.”

18. Black and White

“For most of us, our gay and straight lives are laid out like a chess board (after all the queen is all powerful). Black and white never mix. Each has its own square. The only problem is, in chess the pieces belong to two players. For me they are both mine. I don’t know if the strain of leading double lives tears me at the seams. One gets used to everything, especially when one has no alternative. Our gay identities are taken out of our closets and taken out for an airing (on Saturday night perhaps) and then lust satiated, tucked away. Because we must seek our orgasms in darkness, secretly, too often our sexual life never extends beyond our zippers. Sex is a big-shot biological force. And the fact that society curbs our natural outlets for it – the frustration makes it loom so large in our lives.” (Sandip, Calcutta, *Shakti Khabar*, Feb-Mar 1991)

19. Women and Women

“When I was in college in Himachal Pradesh, my classmates found me crazy; they would laugh and mock at me. I was one of the few who did not boast of having a boyfriend. It was at that time, when I was drowned in complexes, that she came up and hugged me. Nobody had hugged me like that for many years. Her embrace somehow gave an outlet to my suppressed emotions. I started

crying. We got very close to each other as if we were children. She became my patient listener. For hours I would keep lying in her lap and she would stroke my hair...

“For me being lesbian is a matter of emotional, intellectual and political dignity. I have had very bad experiences with social organizations about my sexuality. There is so much repression. I once worked for a few years with a voluntary group in Delhi where, during one of our soul-searching sessions, I spoke about women-women relationships, the need to strengthen them, the need to resist marriage, the joys of being lesbian. Everyone was very sympathetic – they thought I had a problem and harassed me for the entire year with suggestions for cure. In fact, their badgering made me fall sick for a long period of time.

“Women have been friends to each other since the world began. They have been emotional, economic, and intellectual supporters of each other. Women have always had strong attraction for each other, feelings of complete identification and empathy. But heterosexual marriage forces female friendships to compete for a meaningful or equal place in a woman’s life. Despite the enormous pressures put on women to exist for men, they have still been and are struggling to be friends.” (From a long piece written for ABVA by a young woman currently based in Western India).

20. On My Son Being Gay

Mrs B., from South Delhi, whose son last year told his parents he was gay, wants to take up gay issues and help other gay youngsters deal with their sexuality. In her fifties, she spoke to an ABVA member about her initial response: “My first reaction was, “What will happen to my gold bangles!” I asked my son lots of questions, like whether he was active or passive. He was terribly upset by this question and said I was being insulting. My husband kept saying, “No, no, he must be going through a phase.” Disgusted, when my son got up to leave, I called him to me and gave him a hug and he burst into tears. I said to him, “Nothing has changed. You are more loveable than ever before.” When I saw the relief on his face, I suddenly realized what agony he must have been going through, preparing to tell us. Until that moment, I had been thinking only about myself, and what our family would say.

“No, I don’t feel disappointed that my son is gay. I have started to feel proud of it. I do think he would have made such a good husband and father – he is the most considerate person you can know. But I don’t feel sad that there may be no grandchildren. In fact, I have come to the conclusion that you are guaranteed to be unhappy if you marry. I also think that men cannot respect women until they come to terms with the feminine in themselves.

“I make it a point to tell all our relatives about his being gay. I don’t say it in a hush-hush fashion as if it is something shameful or confidential. This way, they don’t get the opportunity to respond in any way other than what I want. One afternoon, a friend of mine brought a marriage proposal for my son. I said to her, without a trace of shame, “But, bahenji, that is out of the question, the boy is gay!”

“I feel worried for my son because he is worried about finding a partner to settle down with. I know it is difficult but I keep telling him that pair bonding is not necessary. There is far greater potential to a person if he or she remains single.” (At the end of the conversation, Mrs B. took out her address book to show scores of addresses of gay people in Delhi – friends of her son. They were all listed under “G”, for Gay.)

21. “Dangerous” Women

How many of us have heard men call a woman who is competent, “tough”, not available, “a bloody lesbian” as a way of dismissing her? The following reflection was written by an Indian woman studying at a University in Britain: “When I heard that a female student who I had bought a drink in our college bar was subsequently cornered by two male students eager to warn her that I was a lesbian and therefore a “dangerous woman”, my reaction was of both indignation (on her behalf) and amusement. Their arrogance shouldn’t have surprised me, given my experience of young men in Cambridge.

“Being a “dangerous woman”, however, appealed to me – though not in the sense I believe they intended. (For my part, I have never whistled at, touched up, sexually harassed, assaulted or otherwise abused a woman, will never expect a woman to bear my name or my children, take harmful contraceptives, or abandon

her career to cater for me). But perhaps it was subversion they wished to charge me with? To this I must plead “Well, it depends...”

“I have known of my Lesbianism for several years and it has always seemed to me a cause for celebration – even though other people have often made it extremely difficult for me to “celebrate” my sexuality openly without great risk to myself and my lovers. To the extent that lesbians attack the status quo and present an alternative to other women, the charge of subversion is justified – with two qualifications: firstly, women are not poor impressionable little creatures; we are certainly best placed to judge for ourselves what is and is not in our interests. Secondly, what is this “normal heterosexuality” that is so fragile as to warrant the alarmism that underlies anti-lesbianism? If heterosexuality is “natural”, why do we need severe social and legal sanctions to enforce it? Why are parents so paranoid about their children adopting the “appropriate” sex-roles? And why should two men I don’t know be so presumptuous as to warn another woman of the danger of associating with me?

“It seems clear that most people are somehow aware that heterosexuality is a rather flimsy social construct requiring inordinate efforts to maintain it “uncontaminated” in the face of the alternatives. I do not, however, see different sexualities in the context of this society as a range of equally weighted alternatives. Your sexuality is political precisely because it isn’t God given and can therefore be altered by choice and circumstance (I certainly thought I was heterosexual once). If I am a “danger” to heterosexist society in some small way by tendering transparent the political (i.e. contingent rather than inevitable) nature of sexuality, then I’m glad. To the charge of feminism I plead guilty: Lesbians may be a danger to the social order, but this “order” is a constant, actual and potential, danger to the female population. It rests upon the sexual and economic exploitation of women - in ways, moreover, that reinforce the racism and class inequalities which are also fundamental to this society. Cases of sexual violence perpetrated by men against women are innumerable and widespread, pervading our lives in detail and encouraged by pornography’s distortion of female sexuality. They cannot be divorced from aggressive heterosexuality. Male violence against women is not a homogenous phenomenon: Women of different “races” and classes experience it in different ways and with varying types of social response. But compared with the danger all women face, particularly from men known to them, the danger we face from lesbianism looks thin indeed.

“Hence the “danger” I posed for my unsuspecting acquaintance in the college bar was in the form of an invitation, not – as the two honourable gentlemen suggested – to get into bed with me, but rather – far more ambitious and subversive – to question and be most critical of those things we are brought up to take most for granted.” (R.A.)

Group Action

Several attempts have been made by gay people in India to organise themselves into formal groups, for social or political purposes. As far back as 1978, a gay newsletter called *Gay Scene* was started from Calcutta. It ran monthly numbers until it folded up in 1980. In 1981, an attempt was made to run weekly Saturday meetings at the Indian Coffee House in New Delhi but it did not survive the summer. Reports from Calcutta reveal that a gay men’s group met every Saturday during 1982-83 at the local Cafe 82.

The publication in January 1986 of *Trikone*, a newsletter for South Asian gay men and lesbians brought out by two Indian graduates in California, USA, was a major event for gay people in India who could read English. Sympathetic coverage in magazines like *Society* and *India Today* brought its address to hundreds of people in cities and small towns across the country. The avalanche of mail received by its editors, Ashok and Arvind, showed how badly needed such a network was in India. *Shakti Khabar*, the newsletter of a South Asian lesbian and gay network, started several years later from London and, like *Trikone*, was circulated free of charge in the sub-continent. Both these newsletters are currently thriving.

In August 1989, advertisements appeared in Calcutta newspapers inviting memberships for the Club de Messieurs (Gentle Men’s Club). However, this effort proved short-lived as the files with the names, addresses etc. of applicants mysteriously disappeared from the office of the coordinator. Calcutta now boasts a Fun Club which, in early October, 1991 held its first musical evening at the St. Paul’s Cathedral.

In January 1990 a gay group started to meet regularly at a central public spot in New Delhi. All through that year, the weekly meetings drew scores of gay men and a few lesbians. Men visiting from Lucknow, Aligarh, Moradabad, even

Darjeeling would attend. By the beginning of 1991, however, these meetings had fizzled out and the group became defunct partly for want of a safe place to meet. *Freedom*, “an Indian Gay News Letter” was launched from Gulbarga, Karnataka in August 1990 and publishes monthly. The Garden City Club of Bangalore was formed in March 1991 “to provide for a non-judgemental forum for like-minded people to meet, and also to work for an amendment to the Indian Constitution which is at present hostile to us.”

Anamika, a South Asian lesbian magazine ran for a few years starting May 1985 but then became defunct. *Shamakami*, a newsletter for South Asian “feminist lesbian-identified women” made its debut from the US in June 1990. In July 1991, Sakhi was announced as a lesbian network coordinated from Delhi. Many other lesbian networks exist but not as formal groups and no contact addresses are available.

By far the most momentous gay event of 1990 was the appearance of Bombay Dost, a quarterly gay magazine edited by Ashok Row Kavi, an openly gay journalist, and others. Dost received widespread sympathetic coverage in the Indian media, including video news magazines. Brought out simultaneously in English and Hindi, the magazine has taken a lead role in condom distribution and AIDS education, particularly for gay men in Bombay. Bombay Dost has already received over 500 letters (mostly from men) from all states in India except four – Arunachal Pradesh, Manipur, Tripura and the Andaman and Nicobar Islands.

Given below are the addresses of some gay groups that we have collated from newsletters and magazines:

Bombay Dost, 105 Veena Beena Shopping Centre, opp. Bandra Station, Bandra (West), Bombay 400 050.

Sakhi, P.O. Box 7032, Srinivas Puri, New Delhi 110 065.

Freedom, P.O. Box 80, Gulbarga 585 102.

Garden City Club, c/o S. Baranidharan, E 59 Indian Institute of Science, Bangalore 560 012.

Fun Club, c/o Pawan Dhall, 79/18A Palm Avenue, Calcutta 700 019.

Friends-India, c/o Shivendra, A-2 Indira Nagar, Lucknow 226 016.

Trikone, P.O. Box 21354, San Jose, California 95151, USA.

Shakti Khabar, BM Box 3167, London WC1N 3XX, UK.

Shamakami, P.O. Box 643, Cambridge, MA 02238, USA.

3. TO LABEL OR NOT TO LABEL – DEFINITIONS AND MYTHS

As the previous chapter has shown, there is no clear-cut definition of homosexuality. There is a great deal of confusion, in medicine, law and criminology about who exactly “homosexuals” are, where they come from, what they do, and how often they do it. The idea of a sexual identity is itself an ambiguous one. To identify someone on the basis of his/her sexual orientation is only one of many ways of defining that person. The world of humans could just as easily be divided into people who are left-handed and those who are not, or according to the colour of people’s eyes or hair. The idea that it is useful or relevant in some way to label a person gay or non-gay is therefore an arbitrary one, though it has a specific, very recent history in medicine and law.

Is there a necessary connection between a person’s sexual behaviour and his/her sexual identity? Many homosexually inclined persons may not perceive themselves as “homosexual”. This may be the result of sexual repression and fear of social ridicule. Or it may be a conscious choice. Many women, for instance, may engage in meaningful sexual and emotional relationships with other women. However, they may prefer to stress their social bonds with these women rather than their sexual links with them. Given these complexities in labelling, can there be any coherent definition of homosexuality at all?

What’s in a Name?

The simplest definition of a “homosexual person” is one who engages in a sexual act with a person of the same sex. This definition causes immediate problems. Do we label a person “a homosexual” if s/he behaves in this manner once? Twice? How often does same-sex behaviour have to occur for the person to earn the label? Does it matter when one engages in this type of conduct? During puberty? While heterosexually married? What kind of behaviour are we talking about? Strong emotional attachment to a person of the same sex? Holding hands and hugging? Kissing? Fantasies? Mutual masturbation? Fellatio? Cunnilingus? Sodomy? Is a person who announces his/her status but never engages in any same-sex sexual behaviour considered “homosexual?” Can a person be celibate and be “a homosexual?” Is there something called psychic homosexuality?

Labelling a person “a homosexual” is obviously a complex matter, medically, legally and in terms of social perception. Given below is a list of terms with clarifications about where they came from, what they mean and how they are employed in this report.

HOMOSEXUAL: A clinical and pseudo-medical term meaning “of one sex”; coined as recently as 1869 by Hungarian psychologist, Benkert von Kertbeny; entered English usage only at the turn of the century through the work of British sexologist, Havelock Ellis; adequate as a description of a sexual relation involving two persons “of one sex” but incoherent when describing a “homosexual person”; considered derogatory, like “negro” for Blacks; has a clinical ring to it as it was coined in the context of pathology; erroneously implies that the primary distinguishing characteristic of such people is their sexuality; preferred term is “gay people” or “gay men and lesbians.”

HETEROSEXUAL: That which is not “homosexual”; medical term invented as a complement to “homosexual”; originally used to describe what we now call bisexuality; gradually rose to eminence, through the services of medical science in early 20th century, as “the norm,” the “healthy” way to live and love.

HOMOSEXUALITY: A broad category which refers to the general phenomenon of same-sex eroticism; comprises all sexual phenomena between persons of the same sex, whether the result of conscious preference, subliminal desire or circumstance.

HETEROSEXUALITY: All sexual phenomena between persons of different sex, whether preferential, circumstantial or subliminal; different from mere heterosexual sexual behaviour in that it has acquired the status of an institution in modern times; social usage, for instance, conflates it variously with marriage, procreative sex, family, and all that is not overtly homosexual.

GAY: Refers to persons who are conscious of erotic inclination toward their own sex as a distinguishing characteristic; a self-assigned category; not every person engaging in homosexual sexual behaviour is gay – in a prison or same-sex boarding school, for example, many persons may be involved in homosexual acts or even relationships without thinking of themselves as gay; the word itself antedates “homosexual” by several centuries; originally referred to sexual

looseness and was used in reference to prostitute women or the lifestyle of men who resorted to them; used as a sort of password or code in the English homosexual sub-culture in the early 20th century; first public use in U.S. in 1939 movie “Bringing Up Baby” in which Cary Grant, wearing a dress, exclaimed that he had “gone gay”; also traced to Gertrude Stein’s story “Miss Ferr and Miss Skeen”; preferred word as it connotes both a sensibility and a desirable political identity instead of merely sexual interest in a person of the same sex.

LESBIAN: Refers to women who have a sexual orientation toward other women; does not have the same negative connotation as “homosexual” female does; also a conscious identity as different from mere same-sex behaviour; term allegedly derived from the island of Lesbos, home of the famous Greek poetess Sappho who was widely believed to have been a “homosexual” woman; even though “gay” includes both women and men, “lesbian” specifies the experience of women which may otherwise remain invisible; in this report, “gay men and lesbians” will be used wherever possible, otherwise “gay people.”

STRAIGHT: The opposite of gay in common parlance; derived from “straight arrow,” a slang term suggesting adherence to conventional values; has a negative connotation; the word “non-gay” will be used instead to refer to a “heterosexual person.”

FAGGOTS: An offensive term for gay men; allegedly arose from the bundle of sticks used to burn homosexual persons alive during the Middle Ages in Europe; similar offensive terms are chhakka (used as an abuse for both gay men and hijras), gaandu (equivalent to sodomiser), pansy (used for “effeminate” gay men); some of these terms erroneously imply that all gay men have what is socially perceived to be a feminine appearance; also suggests that there is something undesirable about things “feminine,” which is more a reflection of social contempt for women than of prejudice against gay men *per se*.

DYKE: Term of abuse for lesbians; “nigger,” which is offensive only when used by non-black persons, the words “faggots,” “chhakka” and “dyke” are offensive when used by non-gay persons but permitted and even used affectionately among some gay individuals.

HETEROSEXISM: The assumption – accepted by individuals and perpetuated by and enforced through institutions – that heterosexuality is superior to other sexualities and is the only natural kind of sexuality.

HOMOPHOBIA: Designates an irrational fear of gay people and their sexuality; most obviously seen in constant, vigorous efforts by many men to appear and behave “masculine,” to constantly ridicule and put down all things that are not “masculine,” be they women, gay men or hijras.

SEXUAL ORIENTATION: Designates a preference for heterosexuality, homosexuality, bisexuality or asexuality, having a history of such preference, or being identified with such a preference; synonymous with “sexual preference”.

URANIAN: Late 19th century term, popular among gay male writers in Europe and those sympathetic to them; derived from the speech of Phaedrus, in Plato’s Symposium in which gay love is described as “heavenly” and heterosexual passions as “vulgar”; similarly, “urning,” “inversion,” “third sex,” etc. were all used for homosexuality before the latter became acceptable in England by the 1930s.

TRANSSEXUAL: An individual anatomically of one sex who firmly believes s/he belongs to the other sex. This belief is so strong that the transsexual is obsessed with the desire to have his/her body, appearance and social status altered to conform to that of his/her “rightful” gender. The popular description of this situation is that the transsexual male feels like a woman trapped in a man’s body; not synonymous with “gay” though some gay persons may fit this description.

TRANVESTITE: A person who likes to dress in the clothing which has been socially assigned to the opposite sex; some, but not all, gay people may fall into this category; nor are all transvestites gay; in the West, for instance, the vast majority of transvestite men have been documented to be heterosexual in sexual orientation.

ACTIVE AND PASSIVE: “Active” refers to the individual in a male homosexual liaison who inserts his penis into his partner, either orally or anally; “passive” refers to the party so entered; sometimes these terms are also used in reference to women – a woman who takes the “active” part enters her partner, either with some

portion of her body or with an object; her “passive” partner is entered; however, such comments about women may be more a projection of male sexual feelings than observations of female ones.

It must be stressed that these terms suggest nothing about the psychological aspects either of the acts involved or of the relationship; “passive” does not coincide with “coerced,” “unwilling,” “effeminate”; and people who prefer “passive” sexual acts can be socially dominant and aggressive; should not be assumed that all gay persons think of themselves as, or are either “active” or “passive”; these terms assume that gay sexual interactions parallel or imitate heterosexual ones; not all gay people have penetrative sex; moreover, can the muscular contractions of the anus or vagina during sexual cohabitation not be considered an “active” agent?; activity or passivity in sexual feelings may exist independently of a person’s sex, gender or sexual orientation.

The strict division of all sexual behaviour into active or passive categories serves as a convenient guide for those terrified of being confused (in their own minds) about the proper role to assume, which acts to perform (or not) in order to win the certification as male.

SODOMY: Derives from Old Testament account of Sodom in Genesis 19 where Sodomites were destroyed for their wickedness, including alleged attempts to “engage in homosexual intercourse with angels”; the city of Sodom gave its name to homosexual relations in Latin – “sodomita” was the word in use before “homosexual” was-invented;

Vague and ambiguous term, used in both Christian religious law and in civil law; has connoted at various times and places everything from masturbation to ordinary heterosexual intercourse in an atypical position to oral sexual contact with animals; at times it has referred almost exclusively to male homosexuality and at others almost exclusively to heterosexual excess; in medieval Europe, the term referred to any emission of semen not directed exclusively toward the procreation of a legitimate child within matrimony, and included most heterosexual activity.

The Indian Penal Code defines it in terms of penetration, presumably anal, but for centuries any mutual non-procreative contact in an effort to achieve

orgasm was enough to constitute the “crime”; the sodomite was one who sinned by performing a deviant social act; during the 18th century, it became increasingly necessary to prove penetration (into the anal passage) for a conviction in law; cannot be assumed that all gay men practice sodomy or that non-gay persons do not.

The above list clearly shows the need to distinguish between behaviour, role and identity when talking of homosexuality. Homosexual, or heterosexual activity has always been present in all societies at all times. However, the social definitions and subjective meanings assigned to it have varied enormously. The perception of “homosexuality” as a medical problem in need of a cure, and of a “homosexual person” as a pervert or public nuisance is a modern phenomenon, originating in the late 19th century. Whereas earlier, sodomites were persons who had sinned or committed a crime by performing an act, now “homosexuals” were a species apart, a type of person with distinguishing physical aspects and psychological traits exhaustively elaborated in medical textbooks and criminological treatises.

Myths and Realities

Not surprisingly, numerous myths have come into being about gay men and lesbians. Most of these are rooted in ill-founded hostility and indifference toward gay people. A bit of common-sense and logic, and they are easily debunked. Some of the more common myths are exposed below:

*** HOMOSEXUALITY IS UNNATURAL**

This argument is a highly confused one and can mean one of several things, each of which is untenable:

- A. If it means that homosexuality is simply “artificial,” then so are many other things that do not elicit the same hostility, for example, synthetics, processed food, dams, condoms, or social institutions like marriage.
- B. If the idea is that homosexuality is non-procreative, not related to reproduction, then this too is an illogical ground for rejection as even celibacy, masturbation and contraception have identical reproductive consequences with those of homosexual activity.

- C. If homosexuality among humans is shunned because it does not occur in animals, then this is easily proved false. Homosexual behaviour, including pair-bonding, has been observed among many animal species in the wild as well as in captivity, for example, among gull. Moreover, even if homosexuality does not occur in animals, so what of it? Is all uniquely human behaviour “unnatural”? Much of human behaviour that is admired is unique to humans. For many philosophers, human behaviour is inherently superior to that of animals. To put it another way, so what if lions are not homosexual? They are not philosophers either!

* HETEROSEXUALITY IS NORMAL

Is heterosexuality a sufficient definition of normality? Why do we ask questions about “deviance” and assume “normality” to be unproblematic? Violent, heterosexual men, for instance, are not “normal” even though they may be assumed to be if they are married and bringing up a family. That sexual unhappiness is widespread in non-gay situations is no secret except for those who are determined to assert the superiority of heterosexuality over homosexuality. Dr. Sudhir Kakar, eminent psychoanalyst, found from interviews with women from a Delhi locality that sexuality was “pervaded by hostility and indifference rather than affection and tenderness ... The sexual act was an experience to be submitted to, often from a fear of beating ... The act itself was seen as a prerogative and need of the male. Sexual intercourse for these women (and men) seemed to be structured in terms of contractual and personal exchange relations, with the ever-present possibility of one party exploiting or cheating the other.” (*Intimate Relations, Exploring Indian Sexuality* (1989)).

* HOMOSEXUALITY IS A WESTERNISED, UPPER CLASS PHENOMENON

It is not difficult to demonstrate that homosexual behaviour, sexual and emotional, occurs in all societies. In their classic work “Patterns of Sexual Behaviour”, Ford and Beach more than two decades ago, revealed that 64 % (49 of 76) of the societies they surveyed regarded homosexuality as a normal sexual adaptation. The 49 cultures varied considerably in the kind of homosexual behaviour sanctioned, the degree to which it is formally institutionalized, merely encouraged or actively prescribed.

Certainly, the modern concepts of a gay identity (as different from “homosexual”) and gay liberation (the demand by gay people for recognition and equal rights) have historical roots in the modern West. But so do some of the phobias about homosexuality which have been imported into our medical theories, penal code and bourgeois morality. Moreover, just because something is “Western” does not make it undesirable. Some examples of things “foreign” which detractors of homosexuality are rather less quick to condemn – parliamentary democracy, trade-unionism, modern medicine, women’s issues, Pepsi Cola, IMF loan, Union Carbide, large dams.

There is also no evidence to show that homosexuality does not exist in lower classes. There can of course be upper-class lifestyles organized around homosexuality. Gays are not a coherent, easily identifiable group. Neither, for that matter, are women. Women’s experiences do not automatically translate into explicit political identities; there are ways of raising women’s issues that can be confined to an upper-class perspective. But that does not make women or women’s experiences *per se* upper class. The need to develop ways at linking sexuality with other issues should not be confused with what may be upper class concerns about sexuality.

Not all people involved in same-sex sexual behaviour will automatically become, or even want to become, political revolutionaries. But the question to ask is whether, given that homosexual behaviour stands in opposition to the regulatory apparatus of the State, it can be the basis for a political perspective? Instead of finding dishonest justifications for avoiding the issue of homosexuality, should there not at least be a public debate on this question?

* **HOMOSEXUALITY IS CAUSED BY TRAUMATIC CHILDHOOD EXPERIENCE**

What “causes” homosexuality becomes an issue of importance only if gay people are regarded as bizarre or abnormal. There cannot be said to be any single cause of homosexuality; its presence and development is a complex mix of natural, social and individual factors. Most non-gays would find it ridiculous and offensive to be asked “What is the cause of heterosexuality?” Yet the “causes” which make heterosexuality the norm, against which homosexuality is seen as deviant, merit investigation. Surely, what passes off as normal behaviour in some

men – pinching women, burning wives, making sexist jokes, rape – must have some “cause”? Could it not be that socialisation into heterosexuality is a traumatic childhood experience? Surely, it is the norm of aggressive heterosexuality that needs to be questioned, not individual variations from it.

A study on the development of sexual preference in men and women, released in 1981 by the Kinsey Institute (USA) concludes: “No particular phenomenon of family life can be singled out, on the basis of our findings, as especially consequential for either homosexual or heterosexual development... Some sociologists attribute homosexuality to “blocked opportunities”, believing that people become homosexual because heterosexual partners are unavailable. But if heterosexuality is so deeply ingrained, how could it readily extinguished by such social circumstances?

“Our findings suggest that homosexuality is as deeply ingrained as heterosexuality, so that the differences in behaviours or social experiences of prehomosexual boys and girls and their preheterosexual counterparts reflect or express, rather than cause, their eventual homosexual preferences. There are also individuals who become homosexual in adulthood without the history of any preadult homosexual feelings and behaviours. In short, theories that tie homosexuality to an isolated social experience cannot be expected to account well for such a basic part of one’s being as sexual preference appears to be...

“So, you may supply your sons with footballs and your daughters with dolls, but no one can guarantee that they will enjoy them. We seem to have identified a pattern of feelings and reactions within the child that cannot be traced back to a single social or psychological root; indeed, homosexuality may arise from a biological precursor (as do left-handedness and allergies, for example) that parents cannot control. In short, to concerned parents we cannot recommend anything beyond the care, sympathy and devotion that good parents presumably lavish on all their children anyway.”

* IF HOMOSEXUALITY IS OPENLY EMBRACED, THE POPULATION WILL DIE OUT

This specious argument implies that all humans would become homosexual, and exclusively so if given half a chance. However, there is no basis for this

assumption. In the absence of social sanctions, the incidence of overt homosexual behaviour might increase but so would the exploration and acceptance of bisexuality. Moreover, it cannot be assumed that homosexual desire leads to non-reproductivity in a person. Both heterosexual and homosexual behaviour are known to be easily compatible. Secondly, there is hardly any proof that sexual desire is a prerequisite for successful reproduction. People who prefer same-sex erotic contacts, therefore, need not be unproductive though they, as anyone else, may choose to be. Similarly, being non-gay is no guarantee that populations will not die out. A look at orphanages will show that it is generally heterosexually inclined people who abandon children. If celibacy can be advocated as a desirable practise without conjuring up fears of the population dying out, why can't homosexuality? In fact, of all the Catholics in India, 65,000 women and 18,000 men are presumably celibate, being members of the clergy. Yet the Christian population has been registering an increase in recent years. One gay writer remarks, "I sometimes think that the family system is a mistake and everyone would be much happier if the heterosexuals restricted themselves to begetting children and the homosexuals brought them up." (Martin Duberman)

* HOMOSEXUALS ARE CHILD MOLESTORS

The vast majority of child molesters in the West have been documented to be non-gay men. In India, adult men are commonly known to marry underage girls and young girls are sometimes pushed into prostitution. Gay men and lesbians are not inherently inclined to molest children any more than others. Most gay people themselves condemn relationships that are not adult, consensual ones. Moreover, phenomena such as rape and molestation seem to be connected less with sexual desire *per se* than with the dominant position of power that someone is in, over someone else. There may be a small minority of gay men who fall into this category, but not because they are gay. Instead of clubbing all gay men as child molesters, those people should be criminalised who like boys so much that they will kill girls, even in the womb, to suit their preference.

* GAY MEN ARE EFFEMINATE, LESBIANS ARE MANLY

This myth is problematic because 1) gay people vary enormously in appearance, one from the other and 2) even if they are "effeminate" or "manly", so what? Such stereotypes presume that culturally defined social roles of

masculinity and femininity do and should correspond with a person's biological sex. Males are assumed to be attracted to what is regarded as feminine and vice versa. Therefore, males who wish to attract other males will be "feminine" and females "masculine". However, nonconformity to gender expectations is probably randomly distributed in the population, completely independent of sexual preference. But if a small percentage of gay men are feminine or lesbians masculine, they are seen to corroborate the stereotype. The existence of "effeminate" non-gay men, or "masculine" heterosexual women is conveniently ignored. The derisiveness with which "effeminate" men are viewed reflects the widespread contempt for the "feminine" in our society.

* GAY MEN ARE HIJRAS

There is no anatomical ambiguity about gay men or lesbians. Attraction to persons of the same sex doesn't make them inter-sexed. Hermaphrodites on the other hand are born with genitals that do not have an unambiguous male or female appearance at infancy or in childhood. Hijras however are not necessarily all inter-sexed persons. They may be hermaphroditic but most are born males and subsequently voluntarily castrated. As Indian culture does not accept homosexuality as a viable alternative lifestyle, many men with a variety of gender identity confusions might opt to join the community of hijras. Some hijras might enjoy or opt for homosexual sex but not all do. Similarly, some but not all or even most hijras use prostitution as a source of income.

* HOMOSEXUALITY LOWERS DISCIPLINE AND MORALE

This argument is often put forward with reference to the Armed Forces. However, there is nothing to suggest that gay men or lesbians are any more or less efficient and committed members of these Forces than non-gay persons. Like other minority groups that demand recognition and equal rights, sexual minorities too are sometimes labeled anti-national, security hazard, and threat to defence discipline. However, it is a strange law which outlaws sodomy as a threat to military morale but not kissing, fondling or sucking between two men or two women.

* GAY MEN ARE NOTORIOUSLY PROMISCUOUS, UNSTABLE

The term promiscuity assumes, nay, insists that monogamy is an intrinsic and absolute good; this is essentially a theological concept, deriving from the Christian attitude to the sanctity of marriage as a sacramental act. British historian, Simon Watney, points out that “it is the exclusive equation of monogamy with morality which privileges enforced fidelity above all questions of consent.” It is the sex-negativism characteristic of Indian society today that equals homosexuality with promiscuity and promiscuity with irresponsibility. But why should this label be automatically applied to all non-monogamous sexual activity, irrespective of consent and honesty?

There is no evidence to show that gay people, as a uniform category, are any more or less promiscuous or sexed than others. Those who do have multiple intimacies either consciously reject the ideal of heterosexual monogamy within marriage or find the option unavailable to them. The noted writer, Firdaus Kanga, asks, “Why does this kind of sexual jungle prevail? Think. If men and women were forbidden to love each other, how much time it would be before their romantic urges “degenerated” into a frenetic hour in the park.” (Sunday Observer, 29 July 1990)

Another gay man summed it up thus: “We won’t make it criminal for you to have sex or build stable relationships, just refuse to acknowledge you exist, close down all the places where you can meet each other, threaten to throw you out of your job, your home, the country if we catch you, watch you die and tell you you deserve it, steal your books, your children, reject you as friends, drag you into court, into hospital, into prisons, into asylums... Then when you come whining to us that you’re badly treated, we’ll tell you there’s something unstable, sick and abnormal about you, that we have other priorities and you’re lucky to have any rights at all.”

References

The following have been relied upon for this chapter:

- Christianity, Social Tolerance and Homosexuality (1981), by John Boswell.
- “Our Straight-Laced Judges: The Legal Status of Homosexual Persons in the United States,” Hastings Law Journal (1979), by Rhonda R. Rivera.

4. HOMOSEXUALITY AND THE LAW

“Criminals come in handy.” Michel Foucault, *Prison Talk*.

Homosexuality is not a crime in India; the act of sodomy is. A person cannot be arrested for being homosexual. There has to be proof of a particular act. Though no distinction has been made between sodomy between man and woman, man and beast, and man and man, the vast majority of prosecutions have been directed at men for homosexual offences. Such a legal classification reflects the centuries old misconception that sodomy and homosexuality are one and the same thing. Public nuisance laws, like those relating to loitering, soliciting, indecency etc. have also been recruited to regulate gay people. Even when gay people have not suffered the full punishment permitted under these laws, their existence has imposed the stigma of criminality upon same-sex eroticism. Lesbian acts, interestingly, are not outlawed. This reflects the secondary position accorded to female sexuality in general. It is not so much lesbianism as female sexuality which society denies. (Jeffrey Weeks, *Against Nature*, 1991)

It is worth asking: Is there more homosexuality in countries where there are no laws against it than in those where it is proscribed? Does legislation influence the frequency of homosexual acts? The answer is no. What purpose, then, do these laws serve? Can there be a constitutionally justifiable rationale for distinguishing between heterosexual and homosexual forms of sexual activity?

Position in Britain

The theologically influenced English buggery statute of 1533 prescribed death for sodomy and in several instances courts directed the execution of men found guilty of this act. The 1861 Offences Against the Person Act removed the death penalty for buggery, replacing it by sentences of between 10 years and life. In 1885, the famous Labouchere Amendment to the criminal Law Amendment Act made all male homosexual activities illegal (acts of “gross indecency”), punishable by up to 2 years hard labour. In 1898 the laws on soliciting for “immoral purposes” were tightened and made to apply to male homosexuals. Lesbian activities were not acknowledged to exist and therefore not proscribed. Efforts to apply these laws to women in 1921 failed on the grounds that publicity would only serve to make more women aware of homosexuality. (Jeffrey Weeks,

ibid) Interestingly, all the enactments concerning male homosexuality were drawn from Acts designed to control female prostitution.

In 1957, the British Committee on homosexual offences and prostitution, under the chairmanship of Sir John Wolfenden recommended that adult, consensual, homosexual acts be decriminalised. Such a change had been recommended more than 50 years before by Havelock Ellis, eminent British sexologist and author of the path-breaking "*Studies in the psychology of Sex.*" Since 1958 the Homosexual Law Reform Society of Great Britain had campaigned for such a step. National debates centred around the questions: Should the State regulate morality? Why should it have a say in private, consensual behaviour between adults? This long campaign resulted in decriminalization of private, adult homosexual consensual acts in England and Wales, through the Sexual Offences Act, 1967. The age of consent provided for in the Act was 21 years. However homosexual acts were to remain illegal with mental patients, members of the Armed Forces and merchant seamen. The Criminal Justice (Scotland) Act of 1980 brought the Scottish law in line with the above mentioned one.

However, this reform was accompanied by more effective policing of public behaviour. Even today, gay people in Britain face serious onslaughts on their rights from an increasingly hostile and moralistic legal system. In 1986, for instance, the British government enacted the notorious Clause 28, banning the "promotion of homosexuality" as a "pretended family relationship". Clause 25 of the Criminal Justice Bill, currently being debated in Parliament, includes provisions for higher sentences for the illegal but entirely consensual acts of soliciting, procurement and indecency by gay men. Also unveiled in 1991 is the Children's Bill, part of which seeks to bar lesbians and gay men from fostering children. These changes in law have been accompanied by an unprecedented increase in the level of police harassment and entrapment of gay men.

Position in the USA

In the US too the law stipulated harsh punishments for homosexual acts. Colonial codes prescribed the death penalty for sodomy and statutes prohibiting lewd behaviour were used to prosecute other homosexual behaviour by men and women. Although most states abolished the death penalty for sodomy in the half

century after independence, all but two in the 1950s still classified it as a felony. Only murder, kidnapping and rape elicited heavier sentences. Erotic activity between women and oral sex between men also fell within the domain of sodomy and “crime against nature” offences. (John D’Emilio, *Sexual Politics, Sexual Communities*)

Though lesbianism was ignored by English law, it was considered a capital crime in the American colonies in the 1600s. This followed the tradition of other Protestant countries like Switzerland, where a woman was put to death by drowning in 1568 for indulging in “sapphism”. (Louis Crompton, *“The Myth of Lesbian Impunity: Capital Laws from 1270 to 1791”*) In Germany and other European countries, an enlarged clitoris was enough to establish a presumption of guilt and justify torture for lesbianism. According to one European anatomist, “women who penetrate men or other women with such unusual organs should be burned.” (Luigi-Maria Sinistrari, 1700)

In 1955, the American Law Institute released the draft of a new model penal code that eliminated the sodomy statutes. In 1973, the American Psychiatric Association changed a century old position by removing homosexuality from its list of mental disorders. Finally, during the 1970s, more than half the states repealed their sodomy laws. 23 states still retain them and of these only 5 apply exclusively to homosexual acts. As recently as 1986, however, the US Supreme Court ruled on behalf of the constitutionality of the state of Georgia’s sodomy statute which makes it illegal for any person engage in “any sexual act involving the sex organs of one person and the mouth or anus of another.” However, Harry Blackmun, one of the dissenting judges, opined: “the right of an individual to conduct intimate relationships in the privacy of his or her own home seems to me to be the heart of the constitution’s protection of privacy.” (Bowers vs Hardwick)

In contrast to these developments abroad, the Indian state has yet to stir from its century old position on sodomy.

Sodomy and the Indian Law

Indian culture tolerated same-sex eroticism for centuries. But the erstwhile British rulers found this to be repugnant, and declared it a crime in the Indian Penal Code (IPC), which was enacted in 1861. Section 377, originally drafted by

Lord Macaulay in the early 1830s, reads: “OF UNNATURAL OFFENCES: Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life or imprisonment of either description for a term which may extend to ten years and shall be liable to fine.

Explanation: Penetration is sufficient to constitute carnal intercourse necessary to the offence described in this section.”

Lesbianism has been rarely brought before a court of law in India and this is not covered by section 377. Sexual intercourse by a human being with a lower animal – termed bestiality; and anal intercourse between man and man or between man and woman – sodomy, are covered under this section. The offences under this section are cognizable, non-bailable ones and are triable by a Magistrate of the first class.

The age of consent for a woman, defined in the section on rape, is 16 years. Marriage is taken as an implied consent by the wife for “normal” intercourse and not for anal intercourse. If the wife consented, both are guilty under section 377; if she did not, the husband alone is. Under section 13 of the Hindu Marriage Act, 1955, a wife can apply for annulment of marriage if the husband has been guilty of sodomy/bestiality.

Analyzing the outdated section 377, Shrikant Bhat, criminal lawyer from Bombay, writes: “What is meant by Macaulay when he postulates the order of nature? What is Order? What is nature? Would the male genital to female mouth (fellatio) and female genital to male mouth (cunnilingus) position be against the order of nature? Nature conceived by whom? Order perceived by whom?” (“Indian Law and the Homosexual,” *Bombay Dost*, No.2, 1990)

We have argued at length in chapter 3 about the incoherence of the natural/unnatural argument relating to homosexuality. It is interesting that there is no reported judgment of any High Court or the Supreme Court declaring cunnilingus or fellatio, between persons of the same or of the opposite sex, an offence punishable under section 377 IPC.

Enforcement of Section 377

Newspapers sometimes report sensational snippets about sodomy “BARBER ARRESTED ON SODOMY CHARGE – The Rajouri Garden Police have arrested a barber, Kailash Chand, on charges of committing sodomy. The police described this as unnatural lust.” (TOI, 17 Sept. 1989) Again, “HELD FOR SODOMY – The Chandi Mahal Police have arrested an 18-year old boy, Mohammad Atrish, of Turkman Gate for allegedly sodomising a person of the same area in an akhara.” (TOI, 10 May 1990)

It is true that the government has a consistently poor record for the enforcement of the sodomy law. However, because of its existence, gay men are subjected to systematic harassment, blackmail and extortion at the hands of the enforcement agencies and the public. It is clear that the law exists solely to criminalise and terrorise a section of society. (See chapter 8)

ABVA’s work with women in prostitution has taught us how SITA (Suppression of Immoral Traffic Act) and PITA (Prevention of Immoral Traffic Act) have been used, and continue to be used by the police to harass these already stigmatised women. Money is regularly extracted from them – the so-called “hafta” which has become institutionalized. Similarly, one sees the Anti-Begging Act being used in Delhi to round up poor people whom the State fails to provide jobs or social security in the first place. The arrested beggars are made to go through the motions of court proceedings mechanically. An ABVA member, who has been working amongst leprosy patients for seven years, has timed the convictions – about 30 beggars get convicted by a Magistrate in one-and-a-half hours time, the sentences ranging from six months to two years or more. At the remand homes, the beggars are made to disappear after money is extracted from them. In effect, laws such as section 377, PITA, the Anti-Begging Act and others are used simply to criminalise already marginalized people

Homosexuality in the Indian Armed Forces

The legal status of homosexuality in the Indian Armed Forces follows the model set by section 377. Section 46 of Chapter VI offences, of the Army Act, 1950 states: “Any person subject to this Act who is guilty of any of the following offences, that is to say – (a) is guilty of any disgraceful conduct of a crude,

indecent or unnatural kind – shall on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.”

Similar provisions exist in the Air Force Act, 1950. It is unfortunate that Indian legislators, even after Independence, borrowed verbatim the anti-gay provisions of corresponding British laws. Why should homosexuality (“unnatural conduct”) be clubbed together with “disgraceful” conduct? Has any study been done to show the correlation between the two?

An American soldier who served in the Vietnam War was convicted by court martial for homosexuality long after he had returned home a hero. His remark – for killing men the government conferred a bravery award on me; for loving them, I got a jail term – has great judicial irony.

Case Law in India

CASE 1: This case raises the question whether the judge’s prejudices about homosexuality irrationally influenced the judgement.

“The Additional Sessions Judge of Pune, Mr. L. Deshpande, on 22 May, 1980, gave death sentence to Parvez Yusuf (22) who fatally stabbed D.G. Divakar (21), his factory colleague, because Divakar refused to have homosexual relations with him. According to the Prosecution, Parvez, being a gay man had made repeated advances which Divakar resented and had even scolded him to the point of hitting him with a slipper and kicking him out of his room. This had enraged Parvez and he got worked up.

“The judge observed that the “noxious and carnal desire” has been proved beyond doubt and that homosexuality and such a heinous murder in its pursuit were serious crimes against society and deserved a severe penalty. The accuser’s plea that he had “defended” himself from Divakar’s attack was not accepted by the Court.”

Reporting this in *Gay Scene* (Nov-Dec 1980), a gay newsletter from Calcutta, the editor opined: “With all respect to Judge Deshpande one cannot fail to see a certain patch of prejudice in his remarks on homosexuality. We do

condemn murder, but were not there murders of similar nature by heterosexuals? No doubt, the news will continue sending shock waves to gays all over the world, now and in times to come. Death penalty is already a taboo in many civilised nations as being more heinous than the crime and criminals. Perhaps a more humane approach than calling the whole thing a pathological sickness of “carnal desire” could do justice to Parvez. Judge Deshpande thought that Parvez was “beyond reformation” but did not analyze the point whether homosexuality or the murder or both were “beyond reformation”.”

CASE 2: Chittaranjan Das was convicted for the offence of sodomy by the trial court; conviction was upheld by the Allahabad High Court. The case came up before the Supreme Court in 1973. The judgement of the Court was delivered by Justice M.H. Beg:

“In view of the material which has been placed before us indicating that the appellant, a highly educated and cultured individual, was suffering from mental aberration when he committed the offence of sodomy, and that, as a result of this conviction, he will suffer loss of service and other serious consequences to his career, we confirm the conviction but reduce the sentence to the period already undergone which is said to be more than 2 months. The appellant, who is in jail, shall be released forthwith.” (1974 (4) Supreme Court Cases 454)

CASE 3: Fazal Rab Choudhary was convicted for having committed an offence under section 377. The learned Magistrate convicted him for the aforementioned offence and sentenced him to 3 years rigorous imprisonment. While recording the order, the learned Magistrate observed:

“Although no previous conviction is proved against the accused but I think accused is not entitled to get any benefit of probation in this case because offence is serious and heinous.”

The appellate court confirmed the conviction, but the learned judge did not discuss the question of adequacy or, otherwise of the sentence. The High Court dismissed the revision, considering it to be without merits. The case came up in the Supreme Court in 1982. Delivering the judgement, Justice D.A. Desai and Justice Baharul Islam opined:

“The offence is one under section 377, IPC, which implies sexual perversity. No force appears to have been used. Neither the notions of permissive society nor the fact that in some countries homosexuality has ceased to be an offence has influenced our thinking. However, in judging the depravity of the action for determining quantum of sentence, all aspects of the matter must be kept in view. We feel there is some scope for modification of sentence. Having examined all the relevant aspects bearing on the question of nature of offence and quantum of sentence, we reduce the substantive sentence to rigorous imprisonment for 6 months.” (AIR 1983 Supreme Court 323)

Though the learned judges have shown all the familiar prejudices about homosexuality (by naming gay people sexual perverts and their actions depraved), there is a recognition of consent as a mitigating factor. This can be construed as a small step in the right direction.

CASE 4: Lesbianism is not covered by section 377, IPC, but the following case illustrates how literature portraying lesbianism comes under judicial scrutiny by invoking the other provisions of IPC.

In 1941, three months before her marriage, Ismat Chughtai, famous Urdu writer who recently died, wrote a story called *Lihaaf* (The Quilt). It deals with a lesbian relationship between two women, as seen through the eyes of a young girl. The author was charged by the Lahore government for obscenity. In her own words, reproduced from an interview with *Manushi*, she said: “We went to Lahore to fight the case. Lots of my supporters who knew me through my writing came to meet me. The obscenity law prohibited the use of four-letter words. *Lihaaf* does not contain any such words. In those days, the word “lesbianism” was not in use. I did not know exactly what it was. The story is a child’s description of something which she cannot fully understand. It was based on my own experience as a child. I knew no more at that time than the child knew. My lawyer argued that the story could be understood only by those who already had some knowledge. I won the case.” Ismat Chughtai was happy that the judges at least got a chance to read her story.

Homosexuality, Privacy and the Indian Constitution

India is one of the few countries that continues to keep an anachronistic sodomy law on its books. The British passed such laws in all their colonies. In July 1990, Hong Kong decriminalized adult consensual homosexual acts. India, Pakistan, Malaysia, and Singapore are the only Asian colonies that still have sodomy laws. (*Trikone*, Jul-Aug 1990)

Isn't such a law violative of Article 21 of the Constitution which guarantees that no one can be deprived of his/her life or personal liberty except according to law that can be regarded as a reasonable restriction on a person's liberty? Does "life" as defined by the Supreme Court mean mere survival? Does it not mean life in all its manifestations including the environment for a person in whom s/he seeks out his/her destiny as s/he feels that destiny? (Shrikant Bhat)

Justice R.S. Sarkaria, chairman of the Press Council of India opines: "There is a school of thought which holds that this right is a fundamental right integral to "personal liberty" guaranteed by Article 21 of the Constitution and also as a derivative of the freedom guaranteed by Article 19(1)(a). In *Kharak Singh v. State of Uttar Pradesh* (1964), while holding that the domiciliary visit by the police to the petitioner's house was without the authority of law, Justice Subba Rao (as he then was) made the following observations on this topic:

"...the said right is an essential ingredient of personal liberty ...nothing is more deleterious to a man's physical happiness and health than a calculated interference with his privacy.' In *Govind Singh v State of Madhya Pradesh* (1975) the Supreme Court observed: "the right to personal liberty ...and the freedom of speech create an independent right of privacy as an emanation from them which one can characterise a fundamental right..." Several other scholars including retired judges, K.K. Mathew ("the right to be left alone," 1979,4 SCC Jul.); V.R. Krishna Iyer ('Privacy is a Human Right,' Press Council of India Journal, vol. 2, Jul. '90, p.15) are also inclined to favour the view expressed by Subba Rao, J., in *Kharak Singh's* case *ibid.*"

(*Press Council of India Review*, vol 12, no 3, 1991)

The right to privacy has also been recognized by the International Convention on Human Rights (1948). Article 12 of the Universal Declaration of

Human Rights made by that convention, ratified in 1978, states: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

Article 8 of the European Convention on Human Rights (1953) as also the International Covenant on Civil and Political Rights, to which India is a signatory, make similar declarations.

Isn't it time that Article 21 of the Indian Constitution is interpreted to include a right of adults to control their own homosexual activities?

Marriages – Made in Heaven?

Through a sex-change operation in 1987, Tarunlata (33) became, a man named Tarun Kumar, and married Lila Chanda (23) in December 1989. They were close friends for five years prior to this. Claiming it to be a lesbian relationship, Lila's father petitioned the Gujarat High Court praying that the marriage be annulled. (*India Today*, April 15, 1990)

The petitioner contended: “Tarun Kumar possesses neither the male organ nor any natural mechanism of cohabitation, sexual intercourse and procreation of children. Adoption of any unnatural mechanism does not create manhood and as such Tarun Kumar is not a male.”

Oddly, section 377, IPC, was invoked for criminal action. It was argued that Tarun Kumar was not a Hindu male at the time of his birth. The High Court issued notice to the respondents including the doctor who conducted the surgery and the registrar of marriages. The same issue of ‘India Today’ quoted the courageous couple: “There is nothing unusual about our relationship as we live like any other married couple does. Even if the Court declares our marriage null and void we shall continue to live together because we are emotionally attached to each other.”

Does Tarun Kumar's father in the above case have any locus standi (standing) to approach the court? Does the law permit a third party, other than the two spouses, to agitate the question of divorce or annulment? Could the Supreme Court entertain a petition if tomorrow ABVA asked for a Chief Minister's

marriage to be annulled on the charge that he had a defective male member? Could it be that Tarun Kumar's father's real concern was that his daughter-turned-son did not fetch any dowry?

What would the courts say to the marriage of someone like Ramakrishna, born in 1836, and his wife Sarada: "His wife Sarada lived with Paramahansa Sri Ramakrishna and their relationship developed into one of the most peculiar spiritual romances of all times. Ramakrishna adopted an attitude towards her which was shorn of all carnality and lust. This sealed the strange conjugal relationship between them. When once the pact of living the life of purely spiritual companionship was solemnly made between them, they adhered to it. Their anatomical differences sank into insignificance and their natural powerful biological attraction was sublimated, into a rare relationship." (*Paramahansa Sri Ramakrishna*, by R.R. Diwakar, Bharatiya Vidya Bhawan, Bombay, 1956) It is also known that Sri Ramakrishna claimed to have achieved such total identification with the Mother that he actually started to grow breasts and claimed even to have lactated.

Can such a marriage also be challenged in a court of law? What constitutes a complete man or woman? Is procreation or even intercourse a must in marriage? What about couples who choose not to have, or are physically incapable of bearing offspring? Is emotional attachment not enough? These are questions for which answers must be searched honestly. Existing laws and judicial practice in this area are inconsistent and discriminatory.

Sex Transformation, Marriage and the Law

In her article "Legal Implications of Sex-Change surgery," (*Journal of the Indian Law Institute*: 1983, Jan-Mar, vol.25, no.1), Kusum argues that "there should be nothing in law to prevent the doctor or the transsexual from going ahead with the surgery or other treatment. Once the operation is performed and the person enters into the new world of the other sex, it should be legally permissible to make consequential changes in documents relating to birth, nationality and identity. Consequences of sex change on marital life should be made clear. Where the change had been undergone before marriage, without concealment or misrepresentation of the material fact, **the marriage should be regarded as valid.**"

Seen in this context, the marriage of Tarun Kumar and Lila should be recognized as valid in law. The above author cautions: “It should not be forgotten that a person who has had a sex-change has already gone through and possibly is going through an emotionally traumatic experience in life. His/her assimilation into the new world should be facilitated by understanding, sympathy and societal acceptance. His/her looks and apparent sex should be the criteria for judging his/her sex for all practical purposes and there is no doubt that the legal recognition of the changed sex as the true sex of a person is the most important and essential factor in rehabilitating a trans-sexual emotionally, physically, socially and psychologically.”

Get Your Act Together

It is about time the Indian Supreme Court recognize the constitutional right of sexual freedom and equality for gay people. Section 377, IPC, should be repealed, else struck down as constitutionally invalid. If heterosexual intercourse between unmarried people is not proscribed, how can the Courts consistently hold that such a right does not extend to homosexual intercourse? If homosexual sex is thought depraved because of its non-reproductive consequences, then masturbation, celibacy, insertion of the finger into the anus, contraception, non-procreative sex within marriage must all be similarly proscribed. Can a distinction between heterosexual and homosexual forms of sexual activity be defended rationally? Is there any basis to believe that gay people, apart from their sexual orientation, are psychologically distinguishable from the rest of the population?

Could it be that male sodomy has been so heavily regulated because permitting it would be compromising male power over women. For can the law countenance men playing a social role – being penetrated – reserved for “civilly and sexually inferior women?” (Andrea Dworkin, *Intercourse*)

It is clear that Parliament and the Courts continue to employ imprecise, unquestioned notions of natural/unnatural and normal/abnormal when dealing with, or ignoring homosexuality. How did heterosexuality come to be seen as the “normal” sexuality? How did homosexuality, which was traditionally proscribed as a specific act, come to be viewed as a depraved condition? While the law gave juridical birth to the homosexual criminal, the apparatus of medical science contributed the underlying pathology. Both processes went hand in hand,

inventing the idea of what, in modern times, is seen to be the “homosexual person”.

(Citizens and organisations, in India and abroad, are encouraged to send petitions urging the repeal of section 377 of the Indian Penal Code to the Chairman, Petitions Committee, Lok Sabha, Parliament House, New Delhi 110001, India.)

5. THE ROLE OF THE MEDICAL ESTABLISHMENT

The medical profession has played a central role in conflating homosexuality with deviance, perversion, and abnormality. While the law categorized “the homosexual” as a sexual offender, medical science worked overtime to unearth, classify, and construct the physical traits characteristic of the “disease” of homosexuality. In fact, many historians suggest that the very concept of “a homosexual,” or for that matter, “a heterosexual,” is a 19th-century European Invention. Certainly, there always existed people with an erotic interest in others of the same or of the opposite sex. But the idea that someone is a particular kind of person as a result of his/her sexual orientation is a uniquely modern concept, just a hundred years old. The end of the last century saw the “homosexual person”, with a definite pathology and identifiable physical traits, created at the intersection of medicine, law and criminology. What was earlier considered a moral offense, became, via medical diagnosis, a vice, an acquired form of insanity, or a congenital defect that indicated evolutionary degeneracy.

For instance, *The Criminals* (1890s), by British sexologist Havelock Ellis, describes sexual offenders as having “eyes nearly always bright.” Similarly, an 1857 study of same-sex eroticism in France, claims to have discovered physical evidence for an inclination towards “pederasty”: “Pederasts are depraved individuals and differ not only morally but also anatomically from other men. Active pederasts have an underdeveloped, tapered penis, resembling that of a dog; the anus of a passive pederast, even before any sexual activity, is naturally smooth, lacking in radial folds.” (Erwin J. Haeberle, “Stigmata of Degeneration – Prisoner markings in Nazi Concentration Camps” in S. Licata, ed, *The Gay Past, A collection of Historical Essays*)

The medicalisation of homosexuality – a transition from notions of sin to concepts of sickness or mental illness – went hand in hand with the emergence of the medical profession itself as a new “priestly class” in Europe. With great fervor, sexologists went about classifying, and in the process, creating categories such as “the moral imbecile,” “the sexual pervert,” “the hysterical woman,” “the exhibitionist,” “the nymphomaniac,” and so on. In England alone, between 1898 and 1908, more than a thousand publications on homosexuality saw the light of day. (Jeffrey Weeks, *Against Nature*) Surely this new vigour was not prompted by a sudden, drastic increase in the incidence of homosexual activity? Rather,

medical science had begun to focus its attention on sexuality as an area of investigation, elaborating both “homosexuality” as a peculiar condition and, simultaneously, “heterosexuality” as the “norm.”

The “Disease” of Masturbation

Central to the above process was the ascription of procreative sexuality, preferably within marriage, as an attribute of normal, healthy males and females. People who did not fit into this reproductive model of normalcy were labelled defective, in need of cure through medicine and regulation through law. Women in general, and women in prostitution in particular, began to be associated with the signs of a specific disease – syphilis, and were subjected to demeaning medical check-ups. Masturbation merited an even more elaborate response. Ever since it was first classified as a disease in a book titled *Onania*, published in Holland in 1700, it was held to be the cause of a wide range of illnesses – dyspepsia, constrictions of the urethra, epilepsy, blindness, vertigo, loss of hearing, headaches, impotency, rickets, leucorrhea in women, and chronic catarrhal conjunctivitis. Nymphomania was found to arise from masturbation, occurring more commonly in blondes than brunettes. Further, changes in the external genitalia were attributed to it: elongation of the clitoris, reddening and congestion of the labia majora, elongation of the labia minora, and a thinning and decrease in the size of the penis. Finally, masturbation was held also to cause hereditary insanity and a predisposition to consumption.

Interestingly, between 1874 and 1933, masturbation was variously classified under the following heads: Male Diseases of Generative Organs, Diseases of the Nervous System, Cerebral-Spinal Disease, Genito-Urinary System Disease. During the same period, it was routinely treated by performing vasectomy and castration on men and clitoridectomy on women. (H.T. Engelhardt, jr, “The Disease of Masturbation: Values and the Concept of Disease,” in Judith Leavitt, ed., *Sickness & Health in America*.)

The classification of masturbation as a disease shows how modern medicine began to equate concepts of good health with those of acceptable moral behaviour in 18th and 19th century Europe. It exposes too, the value-laden nature of medical science, which increasingly categorized sexual behaviour as either healthy or sick, arrogating to itself the authority once exercised by religion in such matters.

The Medical Model in the 20th Century

By the turn of this century there was a consensus within the medical profession about the hereditary origins of homosexuality. Not surprisingly, this medical model buttressed the most extreme form of anti-homosexual repression witnessed in the 20th century – the Nazi attempt in Germany between 1933 and 1945 to assure the male domination of society by strictly regulating masculine sexual behaviour. Medical theories were deployed to show the inherent racial inferiority of Jews, gay men, gypsies and other “undesirables.” These groups were portrayed in medical propaganda as marked by physical deformities (misshapen heads, crooked noses, drooping lower lips, bent legs, and so on) in order to create an image of a sickly, sexually “perverse” enemy. Both abortion and homosexuality were proscribed by law in an effort to maintain purity. Even a kiss or an embrace between two men became a felony (lesbianism, in typically sexist manner, was passed over as being of no consequence) and nearly 10,000 gay men were convicted each year during the Nazi era. Along with Jews, thousands of gay men were rounded up and put in concentration camps. While Jews were made to wear yellow stars, gay men were marked for bureaucratic identification by pink triangles. The medical profession played a central role in this persecution.

The turn of this century also saw a shift, in medical investigations of sexuality, from the body to the psyche. Attention turned from the identification of physical stigma of degeneracy to homosexuality as mental health problem requiring psychiatric treatment. Some historians trace the rise to eminence of this psychoanalytical model to the psychiatric screening of inductees into the Armed Forces which was ordered by the U.S. government during World War II. This event enormously expanded the prestige and influence of the psychiatric profession and spawned many of the popular notions of homosexuality that persist to this day. (John D’Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States, 1940-1970*)

The modern notions of “masculinity” and “femininity,” both in physical appearance and personality, of “mannishness” in lesbians and “effeminacy” in gay men, originated at this time. A “real” man was defined as a “heterosexual” man, one who penetrates and dominates. A woman, if she was not “physically corrupt,” was weak and docile, a receptacle of male “desire” and confined to the reproductive function. Moreover, all sexual acts were defined as intrinsically

“active” or “passive” in nature. This kind of sexual stereotyping gave rise to the idea that the penis and vagina have a “natural fit,” a theory not unheard of even today.

All deviations, whether in the form of homosexual, or for that matter, non-procreative heterosexual activity, came to be viewed as socially threatening “disease.” Methods of medical diagnosis and elaborate therapies were developed to “cure” these new “types” of people: homosexuals, prostitutes, and single women.

No Homosexuality Please, We’re British

Modern-day Indian medical science, like its Western precursor, viewed homosexuality as a social threat and gay people as abnormal. In 1886, Dr. W.J. Moore, the British Surgeon-General of Bombay, expressed his fears about the irrepressible sexual instincts of men in the Indian Army thus:

“For a young man who cannot marry and who cannot attain to the high moral standard required for the repression of physiological natural instincts, there are only two ways of satisfaction, viz., masturbation and mercenary love. The former, as is well known, leads to disorders of both body and mind; the latter, to the fearful dangers of venereal.” (Kenneth Ballhatchet, *Race, Sex and Class under the Raj*)

The danger posed by this “mercenary love” to British soldiers prompted measures for registering women in prostitution, inspecting them, and detaining them in hospital if they caught venereal disease. Linked to this was the fear of homosexuality as a threat to military discipline. Generally viewed by army officers as unmanly, homosexuality was thought of as a danger to “our boy soldiers.” By a perverted twist in logic, providing regulated access to women in prostitution was justified by medical officers as a way to fend off the seductions of homosexuality and protect soldiers’ masculinity. Lord Curzon, who was Viceroy from 1899 to 1905, sent a young Indian prince “who had shown homosexual tendencies” to the Cadet Corps to learn self-discipline. Immediately, however, he began to fear that the young man might be corrupting other cadets. Surgeon-General Hamilton, who was in charge of a cantonment general hospital, observed:

“I have had a good deal of experience (in England) of schools, seminaries and colleges for boys, and, as I daresay you know, few of these institutions escape being infected with some immorality or other; but, once (the special Oriental vice) creeps in, it is most difficult to eradicate.” Curzon’s explanation for the persistence of homosexual tastes in India was Indian custom, specially “... early marriage. A boy gets tired of his wife, or of women, at an early age, and wants the stimulus of some more novel or exciting sensation.” (Ballhatchet, *Ibid*)

No Homosexuality Please, We’re Indian

In contrast to the historical British view of homosexuality as a peculiar Oriental vice, India’s top scientist in contemporary times, Dr. A.S. Paintal, until recently Director General of the Indian Council of Medical Research (ICMR) insists that homosexuality is alien to Indian culture. Employing his own brand of logic, Dr. Paintal claims that, “there is no homosexuality in India because there is a law against it.” (Interview with ABVA, October 1989) We wonder then why the mere existence of laws against dowry does not automatically imply the absence of this evil in society? Or, more pertinent to Dr. Paintal, whether the mere outlawing of adultery means that it does not still flourish with impunity?

The Medical Council of India (MCI), the highest regulatory body for the medical profession, has an even more extraordinary view on the subject. When asked by ABVA to comment on the status of homosexuality in our society, their mysterious and helpless response was: “Please refer to the ICMR.” (October 1991) Similarly, the Professor and Head of the Department of Medicine, Maulana Azad Medical College (MAMC), New Delhi, declared at a national symposium on “AIDS and the Surgeon” (19 April 1991) that “homosexuality, culturally, does not exist in India.”

Yet another interesting view comes from the Directorate General of Health Services (DGHS). In their magazine *Swastha Hind* (December 1988) they claim with great authority that “a good percentage of our young people do not lead a loose sex life. Sexual promiscuity is a relatively unknown term for many. Many young persons come to know of homosexuality only after reading or seeing photos and pamphlets on AIDS. We should exercise caution that we do not over-educate them as instead of controlling, we may then arouse their curiosity and lead them on to unsafe sex practice.” What, we wonder, is the justification for

slipping from talking about sexual promiscuity to referring to homosexuality? Is it the scientific stand of the DGHS that the two are in some way inherently linked?

We would also like to ask the ICMR, MCI, MAMC, and DGHS if they have based their views on any scientific study of the incidence of homosexual behaviour in India? Have these studies been published in respectable medical journals or presented at any scientific gatherings, in India or abroad? If no such surveys exist, should not these apex scientific bodies retract their irresponsible statements?

Curiously, even Dr. Sudhir Kakar, a respected psychoanalyst based in Delhi, is almost completely silent on existence of homosexuality in India. His two books dealing with love, sex and romance in our culture – *Tales of Love, Sex and Danger and Intimate Relations, Exploring Indian Sexuality* (1989) – find the entire realm of same-sex eroticism unworthy of comment or exploration. The latter book, for instance, which claims to be a look at “the construction of the story of Indian love relations” refers to homosexuality only passingly, and even then as a “temptation” to which “men living in crowded slums of big cities and away from their women-folk are undoubtedly subject.” Is such a mechanical model of human behaviour – implying that men, like rats, resort to homosexual behaviour only when put in crowded environment – an accurate reflection of the range of sexual and emotional experiences that characterise same-sex eroticism in India?

An Obsessive Concern with the Anus

Yet another category of medical experts grudgingly acknowledge is the existence of homosexuality but conflate it, variously, with sodomy, perversion and hijras. Professor Opendra Narayan, an Indian doctor at the prestigious Johns Hopkins Medical School in the U.S., views gay men in two categories, “active” or “passive.” He goes on to describe the rectum as an “unhygienic environment” and to elaborate homosexual behaviour in the following terms: “the active sexual partner injects infected semen into the anus of the passive partner... These people have sex twenty to thirty times a night... A man comes along and goes from anus to anus and in a single night will act as a mosquito transferring infected cells on his penis. When this is practiced for a year, with a man having three thousand sexual intercours, one can readily understand this massive epidemic that is

currently upon us.” (Simon Watney, *Policing Desire: Pornography, AIDS and the Media*)

It is noteworthy that the above theory of direct cell to cell infection assumes that the man being talked about can have thirty separate orgasms, with as many partners, in a single night! Biological reality is obviously no bar to Dr. Narayan’s fantasies. Moreover, an extremely narrow education has permitted the learned doctor to imagine sex only in terms of the penetration of the male genital into something or the other. Is there any basis for assuming that sodomy, understood as anal sex, is the only sexual activity engaged in by gay men, or for that matter is an activity unknown to heterosexuals? Scientifically, at any rate, the rectum is as infected or uninfected as any other part of the human body; the mouth and nose have the same level of bacteria and viruses. Shouldn’t the mouth and anus too be defined as sexual organs? Does it come as any surprise that Dr. Narayan specializes in veterinary medicine?

A similar disregard for simple physical truths is displayed by Dr. I.S. Gilada of the Indian Health Organization (IHO), Bombay, who claims that homosexuals are the same as hijras and that “60 % of them are engaged in prostitution.” (*Bombay Dost*, vol 1, no 2, 1990) ABVA is constrained to ask if the MBBS programme in Indian medical colleges teaches students that gay males cannot be distinguished from heterosexual males on the basis of their genitalia? Or could it be that “homosexuals” matter so little that nobody in the medical profession has bothered to check out this detail?

Certainly, Dr. J.K. Maniar, STD specialist at G.T. Hospital, Bombay has not. When a member of ABVA met him in March, 1991, Dr. Maniar introduced him to a young person with AIDS who, he said, was a hijra and, therefore, “not likely to use condoms or practise safe-sex.” When our group member met the patient, he was surprised to learn from him that he was anatomically and psychologically male, though he earned money by having sex with men. Don’t these comments betray contempt towards both gay men and hijras? Could it be that these experts of medical science view all sexual and emotional activity outside marriage as a blur, incapable of differentiation and equal respect?

The above attitudes all show that medical science in India has been quick to adopt some of the worst prejudices in the West about homosexuality. However,

Indian doctors have been less eager to import some of the less noxious and more scientifically viable ideas on the subject developed abroad. Of these, three are of particular importance to note.

1. The Kinsey Study

Alfred Kinsey, an American scientist, published two reports on male and female sexual behaviour, in 1948 and 1953, offering scientific evidence on homosexuality (among other things) which challenged all conventional wisdom. Among males he found that 50 percent admitted erotic responses to their own sex, 37 percent had had at least one post-adolescent homosexual experience leading to orgasm, 4 percent were exclusively homosexual throughout adulthood, and, in one out of eight cases, same-sex eroticism predominated for at least a three-year period. For women the proportions, though lower, still revealed extensive lesbian activity. Twenty-eight percent responded erotically to their own sex, and 13 percent had experienced orgasm with another woman, while the percentage of women either exclusively or primarily homosexual in orientation was between one-third and one-half of the corresponding male figures. The data disputed the assumption that all adults were permanently and exclusively either homosexual or heterosexual and revealed instead a fluidity that belied medical theories about fixed orientations. To highlight these variations, Kinsey constructed a seven-point rating scale, ranging from exclusive heterosexuality at one end to exclusive homosexual behaviour at the other. (John D'Emilio, *ibid*)

Dismissing views of homosexual behaviour as unnatural, abnormal or neurotic, Kinsey concluded that it represented instead an “inherent physiologic capacity.” Moreover, he observed, “persons with homosexual histories are to be found in every age group, in every social level, in every conceivable occupation, in cities and on farms, and in the most remote areas of the country.”

2. Stand taken by the American Psychiatric Association (APA)

In 1973, the APA finally removed homosexuality from its list of mental illnesses, following years of lobbying by activists. Its statement is still significant today:

“Whereas homosexuality per se implies no impairment in judgement, stability, reliability, or general social or vocational capabilities, therefore, be it resolved that the American Psychiatric Association deplores all public and private discrimination against homosexuals in such areas as employment, housing, public accommodation, and licensing, and declares that no burden of proof of such judgement, capacity, or reliability shall be placed upon homosexuals greater than that imposed on any other persons.

“Further, the APA supports and urges enactment of civil rights legislation at the local, state, and federal level that would offer homosexual citizens the same protections now guaranteed to others on the basis of race, creed, color, etc.

“Further, the APA supports and urges the repeal of all discriminatory legislation singling out homosexual acts, by consenting adults in private.” (December 15, 1973; *Trikone*, January 1987)

3. The 1979 Study of Homosexualities

A ten year long study on homosexualities, authored by Alan Bell and Martin Weinberg, was released in 1979 by the Kinsey Institute in Indiana, USA. Its most important findings, based on face-to-face interviews with 1,500 men and women from divergent backgrounds, are summarized below:

“Gay people are “significantly more liberal” politically and notably less religious than the general population. Homosexual men have “more good, close friends” than heterosexual men do, tend to like their jobs better (and few are employed in stereotypically “gay” fields, like hairstyling), and have “work histories fully as stable.”

“A large percentage of gay people – ranging from 64 % of white homosexual males to 88 % of black homosexual females – have had heterosexual coitus. Gay males place more premium on youthfulness than do lesbian women, and are more sexually active. But even for gay men, the data “fail to confirm the idea” of a “sex-ridden people” (40% of the males look for sex partners as little as once a month, or not at all). The data does confirm that it’s “quite uncommon” for gay people to adhere strictly to traditional sex roles; they are also freer than non-gays in engaging in “many different forms of sexual contact” with their partners.

Almost all the 1,500 respondents have had long-lasting relationships with a love partner involving “an emotional exchange and commitment similar to the kind that heterosexuals experience.

“Only a minority of the respondents expressed any regret about being gay; those who did, usually related it to not having children or social position. “It would appear that homosexual adults who have come to terms with their homosexuality ... are no more distressed than are heterosexual man and women.” And they are less prone to making “objectionable sexual advances” to others. This is especially true as regards “the seduction of ‘innocents’; there, the most common pattern by far involves “an older, heterosexual male, often a relative, and a pre- or post-pubescent female.” (Martin Duberman, *About Time, Exploring the Gay Past*)

Isn't it time that the Indian medical and scientific establishment took it upon themselves to launch a massive study of sexual behaviour in general, and homosexuality in particular in India? It is a shame that popular myths and harmful misconceptions continue to be perpetuated about homosexuality without any systematic understanding of sexual behaviour in our society. How much longer will India lag behind the rest of the world in this vital area?

Rays of Hope

Gay people may feel encouraged by the following positive medical views on homosexuality. Varahamihir, an astronomer/ayurvedic physician, who was one of the “nine gems” of the court of Vikramaditya wrote approvingly about lesbian love in his *Brihatjataka* (550A.D.)

According to Modi, whose *Textbook of Medical Jurisprudence and Toxicology* (1983, 3rd reprint) is a worldwide authority, “A homosexual component exists in everybody, so in this sense it is universal; but it varies qualitatively in different individuals. It exists among all callings and at all levels of society.”

Professor M.P.S. Menon, Head, Department of Medicine (and other departments), University of Delhi, gave his views on homosexuality in a written communication to ABVA: “I do not think homosexuality is a cause of AIDS.

Homosexuals and heterosexuals are both prone to developing sexually transmitted diseases equally. If homosexuality or heterosexuality degenerates into intimidation, coercion, and use of force, both become illegal. Sex act with mutual consent, with proper care to avoid receiving and transmitting diseases should not be considered a crime. Using minors as passive agents should be made punishable. Sex acts as a means for earning wealth, positions of power, etc. are reprehensible, whether they be heterosexual or homosexual."

Finally, G. Rattray Taylor, the famous psychologist, made the following observations in his book *Sex in History* (1953). "Passionate love between married people is impossible. The notion that marriage is the proper outcome of the close personal preoccupation which we ambiguously call "love" is of course a modern one.... this conception had never existed in any other period of history and that it was confined, for all practical purposes, to Britain and the US."

The conclusions of this eminent scientist and historian need to be considered by the peddlers of sexual "normalcy" in our medical establishment: "But the past influences us in a more far-reaching way through our basic assumptions, which change very slowly and almost unnoticeably. The best example of this is perhaps the assumption of monogamous marriage, which has become so much a part of our thinking that to challenge it does not come in question. So much so, that we fondly suppose it always to have been the custom; this is by no means the case. It has taken about a thousand years to embed this assumption in our thinking, and no doubt a thousand years from now it will have vanished again. The idea may be shocking but the delightful illusion that social change culminates in us can no longer be sustained."

Individuals and organisations, in India and abroad, are encouraged to write to the President, Indian Medical Association, I.M.A. House, Indraprastha Marg, New Delhi 110002, asking the apex medical body to take a clear stand that homosexuality is normal, it is no longer a physical or mental ailment, and laws criminalizing homosexual acts, or persecuting gay people, should be repealed.

6. CULTURE, HERITAGE AND HOMOSEXUALITY

The religious backgrounds of a culture and its ancient religious codes are often important sources by which individuals live their sexual lives. The Kinsey report, quoted in the previous chapter, concluded that “nothing in American society has more influence upon present-day patterns of sexual behaviour than the religious backgrounds of that culture... ancient religious codes are still the prime source of the attitudes, the ideas, the ideals and the rationalisation by which most individuals pattern their sexual lives.”

If this is so then the incidence of exclusive homosexual behaviour and of bisexuality in India is bound to be far more than the figures documented for the USA. In fact we do not need an Alfred Kinsey to discover the rich possibilities of same-sex eroticism and to appropriate these in the form of modern gay sexuality. It's all there in our art, culture, religion, philosophy and sculpture.

The medical profession, in particular, is oblivious of this rich heritage. For instance, Dr. K. Abhayambika, Professor of Medicine and State Aids Programme Officer, Medical College, Trivandrum, Kerala writes:

“Even at this end of the twentieth century, the Eastern culture is untinged in its tradition of high morality, monogamous marriage system and safe sex behaviour. Our younger generation and youth still practice virginity till their nuptial day. The religious customs and god-fearing living habits are a shield of protection against many social evils. It will be difficult even for the HIV to penetrate this shield, except in certain metropolitan populations.” (*Swasth Hind*)

Typically this Professor of Medicine, like many others, has not cared to learn about indigenous texts, concepts and traditions, which revered and even celebrated sexual ambiguity, whether in the Kamasutra, through sexual dualism, in mysticism, or in female kingdoms.

On Oral Congress

Kamasutra is the first literary classic in the world on matters of sex. It was written by the sage Vatsyayana in the 4th-5th century A.D. The author actually compiled verses from Sanskrit texts several centuries old. The work contains an

entire chapter, *Auparishtaka*, on homosexual sex. Lesbian activity was stated to have been observed in the *Anthapura* (harem). According to the original *Kamasutra*, “*Auparishtaka* (oral congress) appears to have been prevalent in some parts of India from a very ancient time. The *Shushruta*, a treatise on medicine some two thousand years old describes the wounding of the lingam with the teeth as one of the causes of a disease treated upon in that work. Traces of the practice are found as far back as the eighth century, for various kinds of *Auparishtaka* are represented in the sculptures of many Shaivite temples of Bhuvaneshwar, Orissa, which were built about that period.”

The *Kamasutra* records that *Auparishtaka* is practiced by the following – male citizens, who know each other well, among themselves; women, when they are amorous, do the acts of the mouth on the yonis of one another; some men do the same with women; male servants of some men carry on the mouth congress with their masters; eunuchs with males.

One of the original verses has been translated thus “Young masseurs usually wearing ear ornaments do allow their friends as well as some men to have mutual oral congress. Sometimes young actors or dandies allow undersexed or elder men to have oral sex with them. It is also practiced by young men who know each other well. Sometimes men who are effeminate indulge in oral sex with each other simultaneously by lying alongside one another inversely. When a man and a woman lie down in an inverted position with the head of the one towards the feet of the other and carry on oral sex with each other it is called *Kakila*; this term is also applicable to oral congress between two males as also two girls or women.” (translation by Mulk Raj Anand)

Vatsyayana insists that this practice is allowed by the orders of the Holy Writ (*Dharam Shastras*) with just a few exceptions.

Of Eunuchs, Male and Female

The *Kamasutra* refers to two kinds of eunuchs – those disguised as males and those as females. Eunuchs disguised as females imitate their dress, speech, gestures, tenderness, timidity, simplicity, softness and bashfulness; they derive their imaginative pleasure, and their livelihood from *Auparishtaka* and lead the life of courtesans.

Eunuchs disguised as males lead the life of shampooers and practice *Auparishtaka* with the males they shampoo. The following eight things are said to be done by the eunuch in sequence. At the end of each of these, the eunuch expresses his wish to stop; but when one of them is finished, the man desires him to do another and after that is done, the one that follows it, and so on:

1. “When, holding the man’s lingam with his hand and placing it between his lips, the eunuch moves his mouth about it, it is called “nominal congress”.
2. When, covering the end of the *lingam* with his fingers collected together like the bud of a plant or flower, the eunuch presses the sides of it with his lips, using his teeth also, it is called “biting the sides”.
3. When, being desired to proceed, the eunuch presses the end of the lingam with his lips closed together, and kisses it as if he were drawing it out, it is called the “outside pressing”.
4. When, being asked to go on, he puts the lingam further into his mouth and presses it with his lips and then takes it out, it is called the “inside pressing”.
5. When, holding the lingam in his hand, the eunuch kisses it as if he were kissing the lower lip, it is called “pressing”.
6. When, after kissing it, he touches it with his tongue everywhere, and passes his tongue over the end of it, it is called “rubbing”.
7. When, in the same way, he puts the half of it into his mouth, and forcibly kisses and sucks it, this is called “sucking a mango fruit”.
8. And, lastly, when with the consent of the man the eunuch puts the whole lingam into his mouth, and presses it to the very end, as if he were going to swallow it up, it is called “swallowing up”.”

The methodology of the *Kamasutra* seems to have been modeled on Kautilya’s *Arthashastra*. According to A.A. Macdonell, Emeritus Professor of Sanskrit, University of Oxford, “The contents of this work appear to us for the most part indecent, but it must be borne in mind that the Indian is much more outspoken on sexual matters than we are.” (*India’s Past, A Survey of her Literatures, Religions, Languages*). It is a shame that a Westerner has to remind us about our traditional sexual openness whereas we continue to vigorously deny it.

Sexual Dualism

What modern psychologists in the 20th century now acknowledge as sexual dualism in each individual was a principle enunciated in ancient traditions in India. *Ardha-nari* (half-woman) is a form in which Siva is represented as half-male and half-female, typifying the male and female energies. There are several stories accounting for this form, also called *Ardhahanarisa* and *Pavangada*.

Siva is the third deity of the Hindu triad. He is described as the destroying principle. But destruction in Hindu belief implies reproduction; so he is the reproductive power which is perpetually restoring that which has been dissolved. As a restorer he is represented by his symbol the Linga or phallus, typical of reproduction. It is under this form, alone or combined with the yoni, or female organ, the representative of his shakti or female energy, that he is worshipped everywhere.

The idea of sexual dualism is placed before 3000 B.C. In his book *The Religions of India* (1969), A. Barth, member of the Asiatic Society of Paris, states: "As many as an entire half of the Sivaite religions are in fact, characterized by the culture of an androgynous or female divinity. The Shakti, such as she appears in these systems of worship, is no longer derived from the metaphysics. It has its roots far away in those ideas, as old as India itself, of a sexual dualism, placed at the beginning of things (in a Brahmana of the *Yajur Veda*, for instance, Prajapati is androgynous) or a common womb in which beings are formed, which is also their tomb. It proceeds directly from the *prakriti* of the pure *Sankhya*, from eternally fertile nature, whence issue both the sensible forms and the intellectual faculties and before which the mind or the male element, acts as a part that is featureless in character and barren of result. It is difficult to come to any precise conclusion in regard to the period when these ideas were translated into religious beliefs." The supremacy assigned to the female divinity is affirmed in certain *Puranas* and in the literature of the *Tantras*.

Giti Thadani, a young independent researcher from New Delhi, elucidates on the vision of such a feminine world, "pre-patriarchal" in structure: "Importance was not attached to the 'male-female couple', but on the notion of yoni which signifies 'the womb, the infinite source', the symbol of which was the triangle. The triangle consisted of two points of 'light' represented by female

twins, symbols of fusion, and of a third point which was the earth. The notion of twins or jami also signifies, in various texts, “homosexuality”. This triadic system goes back to a family structure in which importance is not attached to the notion of the ‘social father’ or the biological mother, but in which there is a notion of multiple mothers. So, for example, families did not have the name of the biological father, but the names of gods; and a child could have one mother for pleasure, one for knowledge, one for art and so on. Sexuality was based on pleasure and on fertility, but not on progeny (the practice of passing over the children to the man). Phallic discourse only appeared with progenic sexuality. So, the first notion of “heterosexuality” appeared under the terminology of a-jami, that which is not jami, which is not paired, fused as it is in the notion of “homosexuality”. (*Shakti Khabbar*, June-July 1990)

The Sivaite Cult

Excavations from the site of the Indus Valley civilization reveal huge stone phalli and rings corresponding to lingas and yonis, as also to prototypes of Siva. It has been suggested by some historians that this civilization was Dravidian and was destroyed by “barbarians,” including at least invaders from north-west Iran. Some have boldly suggested their identification with the Vedic Aryans. Fierce conflicts occurred between the invaders and the Dravidians, whom the Aryans derogatorily called *dasas*. Indra, the chief of the Aryan gods, became the mighty destroyer of the forts of the *dasas*. However, some Dravidian gods and goddesses, ideas and customs, were absorbed by the Aryans.

The Vedas (1000-1500 B.C.) did not countenance the worship of the lingam but this was enjoined in the *Mahabharata* (written by Vyasa, around 500 B.C.), in two passages, which appear in later editions. In *Hinduism and Buddhism: An Historical Sketch*, volume 2, (1921) Sir Charles Eliot documents that phallic worship “forms part of the private devotions of the strictest Brahmans and is not connected with low-castes, with orgies, with obscene or blood thirsty rites or with anything which can be called un-Aryan.”

The appropriation of Siva without Shakti was the selective borrowing of an Aryan culture, which was becoming increasingly brahmanical (some have suggested patriarchal) in structure. What were the rituals connected with the

Sivaite cult which were surgically excised from the form of phallic worship that became part of mainstream Hinduism?

Tantric Rituals

Describing Tantra as a school of thought which evolved the idea of universal bisexuality in human personality, Subodh Mukherjee, a gay man from Calcutta writes: “Along with Tantra came the yogic ideas of six *chakras*, or nerve centres, within the human body. According to Tantra philosophy, the basal *chakra* lies in the perineum (between the anus and the phallus/vagina) of the human body where the *kundalini*, the serpentine power of enlightenment is said to lie (or sleep) in a coiled-up state. The sexo-yogic methods of Tantric discipline seek to arouse this power and make it shoot up the spine, through the six *chakras*, straight up to the cerebrum in the brain.” (*Trikone*, Jan-Feb 1990)

French Indologist Alain Danielou, in his book *Shiva and Dionysus*, explains the tantric rite of anal penetration thus: “There is a whole ritual connected with anal penetration through the narrow gate opening into the labyrinth (in the man the intestine). In Tantric yoga, the centre of Ganesha – the guardian of the gates – is found in the region of the rectum. The male organ, in directly penetrating the area of coiled-up energy, may help its brutal awakening and thus provoke a state of enlightenment and sudden perception of realities of a transcendental order.”

The objective of tantric rites is to harmonise and combine “the two polar principles, Shiva and Shakti in one’s own body”; this conception of human bisexuality elevates the homosexual to the pedestal of great sanctity. (Mircea Eliade, *Mephistopheles et l' Androgyne*). “The hermaphrodite, the homosexual and the transvestite have a symbolic value and are considered privileged beings, images of Ardha-narishwara.” (Danielou)

Ardha-Narishwara Abroad

In sharp contrast to such celebration of sexual dualism, the official position of the Indian government on the theme of *Ardha-narishwara* can be summed up by the following description by noted Hindi writer, Mrinal Pande: “A choreographic display of the traditional *Ardha-narishwara* theme sent one of our venerable Indian diplomats in Moscow into a paroxysm of rage. The theme of

this proposed exhibition through dance and mime, illustrated beautifully how men and women house so many different capacities within male and female forms, the full range of which lies suppressed very frequently under societal taboos. But the diplomat's spluttering rage saw to it that the programme was cancelled. One wonders just how many musicians, dancers and craftsmen the country must have thus lost due to this curious and intolerant obsession with body image, genitals and "masculine" or 'feminine" behaviour of a certain kind. Wouldn't it be far healthier to have a society where, without disfiguring the body, a man or a woman can if s/he feels like it, keep house, dance, take to music or embroidery or cooking or take on a tough job, play, go out when s/he feels like it, if only to bum around with his/her mates, without ever feeling freaky or apologetic." (*The Independent*, quoted in *Bombay Dost*, May 1990)

Mysticism

Religious mysticism constitutes another tradition which subverts rigid male/female, masculine/feminine distinctions. Gandhi, for instance, aspired to become God's eunuch; many Christians seek a union of their hearts with the Sacred Heart of Jesus and the sorrowful heart of the Virgin; and many Sikhs find the intimacy of spiritual love expressed in terms of the earthly bride's wedding with the transcendental Lord. Other mystics have included Mira, the queen of Udaipur, who found her fulfillment in the love of Krishna; 16th century poets, Kabir, Malik Mohamed Jiyasi, Tulsidas and Eknath, poet Chandidas; Abhiram Swami and Vikramangal; various other Sufi and Tantric mystic sects.

Radha Kamal Mukherjee in his book *The Theory and Art of mysticism* (1960) describes a type of mystical experience – "fervent mysticism, saturated with intense emotional satisfaction in which God appears in a concrete human pattern, and the mystic in his state of rapture can hardly distinguish between the apprehension of his unity with God and sensual and even sexually determined delight. Deep and delicate affections here blossom forth into spiritual love of which the species and types are as different as the various human relationships and the moods and temperaments of individuals."

In a recent book *The Analyst and the Mystic* (1991), psychoanalyst Sudhir Kakar explains the mysticism of Ramakrishna, one of the greatest modern mystics, thus: "Ramakrishna felt that the classical disciplines of Yoga were very

difficult to follow for most human beings since the identification of the self with the body, which these disciplines seek to undo, was too deeply embedded for any easy surrendering. For those who could not get rid of the feeling of “I,” it was easier to travel on the devotional path where one could instead cherish the idea that “I am God’s servant” (or child, friend, mother, or lover)... The *vairagya*, the renunciation (of the passions) can take place equally well by changing the object of these passions, directing them toward God rather than the objects of the world. “Lust for intercourse with the soul. Feel angry with those who stand in your way toward God. Be greedy to get Him. If there is attachment, then to Him: like *my* Rama, *my* Krishna...”

“The longing had to be so intense that it completely took over body and mind, eliminating any need for performing devotions, prayers, or rituals... Devotion (*bhakti*) matures into *bhava*, followed by *mahabhava*, *prema* and then attainment of God in the *unio mystica*...

“Practising the *madhurya-bhava* of Radha towards Krishna, (Ramakrishna) dressed, behaved, and lived as a girl for six months... When living in the motherly *bhava* of Yashoda towards Krishna, he had one disciple, who felt like a child toward him, lean against his lap as if suckling at his breast while the mystic talked or listened to the concerns of his other disciples.” Ramakrishna once described how “the Divine Mother revealed to me in the Kali mother that it was She who had become everything.”

Female Kingdoms

Strong lesbian feelings and activities are reputed to have existed in a female kingdom during the latter part of the 1st century B.C. Parts of northern India had plunged into darkness at this time because of a foreign invasion. King Amlat attacked and captured Pataliputra. Atrocities were committed on local inhabitants. The attack by the Huns resulted in mass-scale tragedies. According to available records of the time:

“In this dangerous war practically all men of the nation were killed; so women had to do all the work. They ploughed the land; protected the fields with bows and arrows. The women organized themselves. Men were so weak that on

an average 10-20 women married the same man. All business in villages and cities was looked after by the women.” (from the works of Gargacharya)

References to female kingdoms are also found elsewhere:

1. Kautilya (4th century B.C.), the Prime Minister of Chandra Gupta Maurya, has referred to such kingdoms in his monumental work *Arthashastra*. Stri rajya existed in various parts of India.
2. Kalidas (4th century), our national poet, refers to such a kingdom in his works.
3. Hiuen Tsang (7th century), the Chinese pilgrim, refers to two female kingdoms in his commentaries.
4. *Mahabharata* (800-500 B.C.), by Vyasa, contains references to two kingdoms, those of *Alli* and *Pavazha Kodi*, both female monarchs. A verse in the *Mahabharata* also refers to women stimulating each other’s genitals and condemns them for using an artificial penis. Two references to hijras also occur in this work:

a) Shikhandi (Sanskrit word for peacock, our national bird, which is a symbol of sexual energy) was a hermaphrodite or eunuch;

b) During their last year in exile, Yudhisthira asks Arjuna, the hero of the Mahabharata, what disguise and profession he will take up for the thirteenth year in order to remain undiscovered. Arjuna answered that he would hide himself in the guise of a eunuch and serve the ladies of the court. Arjuna had been cursed with the loss of manhood in a previous encounter with the goddess Urvashi, but through the grace of god Indra the curse would only hold for one year. So, Arjuna, by living for one year as a eunuch would be fulfilling two duties at once. He describes how he shall spend the year, “...wearing bangles made of white conches, braiding my hair like a woman, and clothing myself in female attire, I shall engage myself in menial work in the inner apartments of the queen. I shall teach the women singing and dancing.” (Serena Nanda, *The Hijras of India, A Preliminary Report*, 1984) Arjun is said to have exclaimed in court, “Know me, O King of men to be Vrihannala, a son or daughter without father or mother.” (*Virata Parva*, Section XI)

Many hijras, including one that an ABVA member spoke to in a slum in Delhi, point to this story as the story of their origin. They also narrate the story of Ram's return from exile whereupon he found a group of hijras at the entrance of the jungle; they had awaited his return for 14 years. Moved by their gesture, Ram is said to have promised that they would rule the world in the distant future.

In Valmiki's *Ramayana*, Hanuman sees women in passionate embrace in the palaces of Lanka "as if they were making love to their male lovers."

Muslim Culture

As the above will have shown, homosexuality, and specifically sodomy, were not introduced into India by Muslims. Under Muslim rulers, however, homosexuality entered Indian court life. Harems of young boys were kept by Muslim nawabs and Hindu aristocrats in the 16th century. Babar wrote romantically about his famous love affair with a boy, Baburi, at Andezan in the *Tuzuk-i-Babri*. Dargah Quli Khan, an important official in the principality of Hyderabad, observed homosexual activities and homosexual love in the life and culture of Delhi on the eve of Nadir Shah's invasion. His personal diary, *Muraqqa'-e-Delhi, The Mughal Capital in Muhammad Shah's Time*, contains some glimpses of gay life during his three years stay in Delhi, between 1739 and 1741.

Azam Khan, one of the chief nobles of the Empire, is described in this memoir as "a pederast (who) is fond of beautiful girls as well... Whenever he is informed of the availability of a lad or a beautiful girl he endeavours to be the buyer." Similarly, Mirza Munnu, a man of noble birth "is also perfect in this art of sodomy. He acts as a guide to the novices who in turn feel proud to imbibe this trade from him. He organizes *mehfils* where groups of lads are made available. His house is the palace of *Shaddad* (an impious king and founder of *Bagh-e-Iram* where all the beautiful whores get together), full of fairy-like lads and lasses..."

Again, "Sultana is a twelve year old, olive complexioned catamite, whose coquetry reflects itself in his dancing.... He is a bud who competes with flowers or the flame of the lamp facing the light of the sun. The audience wish to hear him repeatedly and their thirst for a vision of his beauty is not easily quenched." "Mian Hinga is a fair complexioned youth and in his white dress looks fresh as

the jasmine flower. He holds an assembly outside the walls of the Imperial Fort... Many renowned people go for walks to the chowk and under the pretense of buying rare objects, watch him perform... he looks as fresh as dawn dipped in dewin spite of many invitations he never visits anyone at their residence. His fans have to visit his house if they wish to derive pleasure from his acts.” (*Muraqqa’-e-Delhi*, translated by C. Shekhar and S. Chenoy)

In Islamic Sufi literature homosexual eroticism was a major metaphorical expression of the spiritual relationship between god and man, and much Persian poetry and fiction used gay relationships as examples of moral love. Although the Quran and early religious writings of Islam display mildly negative attitudes toward homosexuality, Muslim cultures treated homosexuality with indifference, if not admiration. The classic works of Arabic poetry and prose, from Abu Nuwas to the *Thousand and One Nights*, treat gay people and their sexuality with respect or casual acceptance. The Arabic language contains a huge vocabulary of gay erotic terminology, with dozens of words just to describe types of male prostitutes. Erotic address by one male to another is the standard convention of Arabic love poetry; even poems really written for women frequently use male pronouns and metaphors of male beauty. The association of homosexual feelings with moral looseness appears to be a comparatively recent phenomenon. (John Boswell, *Christianity, Social Tolerance, and Homosexuality*).

Christian Attitudes

It is generally believed that Christianity has been unrelentingly hostile to gay people and their sexual activities. However, historian John Boswell, in his influential book *Christianity, Social Tolerance, and Homosexuality* (1981) argues that this is not so. The Early Christian Church, for instance, does not appear to have opposed homosexual behaviour *per se*. The most influential Christian literature was moot on this issue and no prominent writers considered homosexual attraction “unnatural”. Those who objected to these feelings did so on the basis of considerations unrelated to the teachings of Jesus or his early followers. Gay saints and gay marriages were not unknown. Jesus himself did not say much about sexuality. He neither condemned sexuality among the unmarried nor say anything in relation to homosexuality. The only sexual issue which concerned him was fidelity. He regarded friendship as the highest form of human commitment.

The word “homosexual” does not occur in the Bible. The idea that homosexual behaviour is condemned in the Old Testament stems from the account in Genesis 19 in which the city of Sodom is destroyed for its wickedness. However, Boswell argues, none of the passages which refer to Sodom’s wickedness suggests any homosexual offences. The original moral impact of the passage had to do with hospitality. A purely homosexual interpretation of this story is relatively recent.

Neither Christian society nor theology as a whole evinced or supported any particular hostility to homosexuality, but both reflected and in the end retained positions adopted by some governments and theologians which could be used to derogate homosexual acts. Even then, neither these acts nor gay people were singled out as they subsequently were in the modern West as perverts, criminals or sick people. Homosexual acts when disapproved of were proscribed as part of a category of acts having to do with eroticism generally – infidelity, sexual excess, etc. Moral theology throughout the 12th century treated homosexuality as at worst comparable to heterosexual fornication but more often remained silent on the issue. Homosexual passions even became matters of public discussion and were celebrated in spiritual as well as carnal contexts.

Between 1250 and 1300, however, homosexual activity passed from being completely legal in most of Europe to incurring the death penalty almost everywhere. This sudden hostility was linked to a general increase of intolerance of minority groups in ecclesiastical and secular institutions throughout the 13th and 14th centuries. This was reflected in crusades against non-Christians and heretics and the expulsion of Jews from many areas of Europe, the rise of the Inquisition, efforts to stamp out sorcery and witchcraft, etc.

Boswell rebuts the idea that religious belief – Christian or other – has been the cause of intolerance in regard to gay people. Religious beliefs may cloak or incorporate intolerance but careful analysis can differentiate between conscientious application of religious ethics and the use of religious precepts as justification for personal animosity or prejudice. Biblical strictures, he contends, have been applied with great selectivity by all Christian states. As an example, the same religious book which is thought to condemn homosexual acts also condemns hypocrisy and greed in the most strident terms. “Yet no medieval states burned the greedy at the stake.”

7. SOCIAL ATTITUDES

In a society such as ours, where notions of same-sex friendship, romance and love still suffuse the lives of ordinary men and women, why does homosexuality elicit responses of denial, hostility or ignorance from the intelligentsia? Some people are quick to point out that sexuality itself has become a taboo subject of discussion, so why single out homosexuality? This argument, however, smacks of dishonesty. Despite all the squeamishness about discussing it, heterosexual sexuality remains a pervasive norm. Whether through the institutions of marriage and the family, the stereotyped role models presented from childhood onward, or the aggressive marketing of images through films, literature, and advertising, heterosexuality is constantly thrust down everyone's throat.

Gay men and lesbians challenge deeply held assumptions about marriage and normality, the correct ways of living and loving. No surprise then that political leaders, police officers, social activists, health bureaucrats, doctors, lawyers, teachers, and other professionals, are near unanimous in sidetracking the issue of homosexuality. It is alien to our culture; it is not relevant in a poor country like ours; why use the word gay and spoil things, we should simply look at the rich same-sex social bonds in our society; it is all an excuse for upper middle-class people to have lots of sex; and so on.

These arguments against homosexuality as a valid area of experience, exploration and politics have exactly the same structure as those made 15 years ago by the opponents of "women's issues". Since that time, not only have hundreds of voluntary women's groups sprung up, but also every major political party, including the Left parties, has a separate women's wing. The arguments above deny the historical role of the medical sciences and of the modern Indian state – law, courts, police and Parliament in constructing, labeling, stigmatising and persecuting both gay people and same-sex eroticism. Hardly the cause of the prejudice and hypocrisy about homosexuality, such responses are the justifications for it.

ABVA, while preparing this report, wrote to eighty-odd prominent citizens and organizations from different walks of life in Delhi. We explained that we were involved with-AIDS activism and had brought out separate reports on the

already marginalised status of women in prostitution and professional blood donors in India. We now wanted their assistance in developing a perspective for understanding homosexuality in our society, as this was not an area open to public discussion. Even if they did not consider themselves particularly informed about the subject, we requested a chance to meet them to discuss the issue. Reminders were also sent to several people. Nineteen replies were received. These merit special attention as they reveal the mind-set of the intelligentsia (both establishment and anti-establishment) in Delhi on this issue.

Dodging, Dragging and Lying

None of the Members of Parliament we wrote to found homosexuality worthy of attention. The World Health Organization (WHO) was too busy to meet us till the time this report went to press, as was Madhu Kishwar (Manushi) despite our best efforts. The Medical Council of India (MCI), the highest regulatory body for the medical profession, expressed its sudden crisis of identity by saying: “I am directed to request you to kindly contact the authorities of the Indian Council of Medical Research (ICMR), New Delhi in this matter.” Why the MCI should look towards ICMR, only a research body, is not clear. The ICMR, in sharp contrast to its earlier vilification campaign blaming women for AIDS (“at least it will shock people and provoke a debate,” the Directors had said), was either too shocked to respond or asleep. Also asleep were other leading lights from the struggle against AIDS in India – Directorate General of Health Services (DGHS), Central Health Education Bureau (CHEB), AIIMS, Maulana Azad Medical College (MAMC), Ministry of Health and Family Welfare, and Delhi Administration.

Dr. Onkar Mittal, medical officer in the Delhi Development Authority (DDA) Slum Wing, wrote: “I have noted with a lot of interest the human rights issues your group has been raising in the context of AIDS. I must say that all concerned citizens should make their contribution towards this and that too first of all by educating themselves about it. I will appreciate if you continue to keep me informed about the activities of your group as well as send me any literature published by you.

“As regards the issue of homosexuality, I am sorry to say that because of my other engagements and time constraints, I shall not be able to participate in this

endeavour.” It appears from this contemptuous comment that at least AIDS has become fashionable!

Some who were asleep did not mind being woken up. After conversations with ABVA members, they were honest and courageous enough to take a stand. Amiya Rao, who some years ago faced sedition charges for her report on Punjab, said she was aware of the fact that homosexuality had been decriminalised in England and in the US. Decriminalisation of sodomy will take a long, long time in India, was her view. “Here we do everything but are quiet about it.” Amiya Rao, who is in her late sixties, was formerly associated with Citizens for Democracy and had recently returned from Kashmir when we met her.

Inder Mohan, 71, veteran civil liberties activist, who recently returned the Padma Bhushan conferred upon him, said: 1) Homosexuality exists in Indian society. I am even aware of it among national-level leaders today. 2) It is wrong and mischievous to say that Muslim invaders introduced sodomy into India. 3) I am very frank about the issue of human sexuality and have no hesitation in standing for the human rights of homosexuals. Inder Mohan was imprisoned by the British for two and a half years during the freedom struggle and again during the Emergency under Defence of India Rules.

Mulk Raj Anand, distinguished writer and co-editor of a modern English translation of the *Kamasutra*, when interviewed by ABVA, said that he believes in a “free society.” He condemned a recent incident in which a male research scholar from Jawaharlal Nehru University (JNU) had raped a 5-year old girl.

Those who could not be woken up from sleep, as they were dreaming about the “real” revolutionary issues, like Planning Commission, foreign funding, political fame, more relevant issues, etc. include: Swami Agnivesh, Upendra Baxi (Vice Chancellor, Delhi University), Lokayan, Sampradayikta Virodhi Andolan (SVA), Dr. A.S. Paintal, Dr. A.N. Malviya, Prof. Veena Das (Delhi School of Sociology), professors of Maulana Azad Medical College (MAMC), senior advocates of the Supreme Court, MPs, and women’s wings of political parties, among others.

Another category consisted of people who were indifferent. Virendra Singh Chaudhri, Assistant Commissioner of Police (ACP) (Crime), New Delhi referred

to the matter as a personal one in an interview with ABVA. Why then, we wonder, do his officers harass gay men as documented in the chapter on human rights? The ACP was kind enough to show us the crime registration record for section 377, IPC, in Delhi for 1990-91. Not surprisingly, this was zero. What then is this section used for? *Is it acceptable for such a senior police officer to claim ignorance of the role of the police in the lives of so many gay people?*

What Was the Question?

Surgeon Vice Admiral Y.C. Sharma, of Director General Medical Services (Navy), completely ignored our request for a discussion on homosexuality. He, however, stated:

“We as yet do not have a full blown case of AIDS in our organisation. We in the Defence Forces have a policy which does not discriminate against HIV positive/AIDS cases.” What about gay people, Vice Admiral, what about gay people?

The strategy of “read but ignore” was further refined by the YWCA of India, whose national general secretary, Miss Sadhona Ganguli, wrote: “We are deeply concerned about the reports on AIDS appearing in newspapers and some of the misconceptions which lead to neglect by doctors of the AIDS affected patients. Our organisation would definitely like to be associated with the work undertaken by ABVA.” Not a whisper about our main request – some views on homosexuality. The prestigious Centre for Women’s Development Studies (CWDS) greatly furthered the work YWCA set out to do – ensuring the invisibility of lesbianism in the lives of women in India. Their short and evasive reply, in the name of Kumud Sharma, read like this: “Thank you for your letter. Good wishes.” Kamala Bhasin, prominent feminist in New Delhi, said: “I don’t know what to say. I don’t have any information on this issue.” (conversation with ABVA member)

The work of throttling the issue of lesbianism was completed by the other women’s groups in the capital. All but two kept up a conspiracy of silence. One of the honourable exceptions, Joint Women’s Programme, said: “We feel this matter needs to be taken up seriously as there is a lot of bias against this section of people. There is need to inform people more about the problems faced by the

gay community, as they suffer a lot of harassment from society.” (Jyotsna Chatterji, Associate Director)

Another women’s group, Jagori, had this to say: “We received your letter regarding your work concerning homosexuals. It sounds interesting and there is definitely an important issue which has not been given enough attention and needs to be.

“As far as we are concerned, we have not done any work or research in this area till now. But if you would still like to meet us, you could do so...” When we met with two members from Jagori, we were told that our discussion with them could not be quoted without first being cleared by the group as a whole.

Systematic Denial

We would like to raise the following questions for all the above groups and individuals: Is there any excuse for not yet having taken a stand on homosexuality and human rights? If a rape occurs somewhere, or an atrocity is committed on a person from a Scheduled Caste background, do these organisations wait to do research, ratify their views about the repugnance of what has happened, then swing into action? Even if there is a tacit consensus that “gay liberation” patterned on the western model is not relevant for the vast majority of Indians, then don’t ideas about alternative ways to raise the issue of same-sex eroticism even merit public debate?

It is clear that the issue of homosexuality has never been acknowledged to exist, let alone discussed in most of these organisations. The response “why label it gay or lesbian” shows the extent to which medicine, law and criminology have succeeded in conditioning people to think that homosexuality is all about sex. The point that these labels exist in official discourses, in law books, police records and medical texts is completely ignored. The hesitation to even discuss the issue reveals what a deep-rooted stigma homosexuality still remains, within the establishment and among the anti-establishment intelligentsia.

In early March, 1991, ABVA was asked to informally speak on homosexuality to some members of an organisation working with disabled children in New Delhi. The upper-level staff was exorted about the homosexual

activities of two male employees who were. “caught red-handed in a compromising position in the kitchen.” The fear was that these gay men, if not stopped, would molest the children on the premises. We pointed out that their homosexuality per se did not make them more likely to be child molesters. However, they should take whatever precautions they would otherwise take for the protection of the children in their charge. Interestingly, we were told that several molestation incidents had occurred in the past but these involved heterosexual male employees molesting girls. We were also given to understand that the gay employees were not provided any accommodation on campus even though one of them worked through the night. Where then could they have sex except in the kitchen? When asked for our advice on the need for counselling these men, we suggested that they be told about condoms and safe sex.

Ankur, a voluntary group involved in education work in slums in Delhi shared the following incident with ABVA: “The wife of a gay man (who had three children) in one of the slums where Ankur works, recently complained to our group about her husband’s homosexual activities. In our enthusiasm, some of our staff workers circulated this information among the young men of the area and got them to beat up this gay man. Later we learned to our horror that some of these young men had forced him to have sex with them. They had also started to taunt and harass the wife to such an extent that she was forced to return to her village with her three children. Of course, we felt that her husband was not being fair to her. But now we realize that what we did in haste was also not fair.”

Heterosexuality – At What Cost?

The only “non-gay” voluntary group in the country to take an unambiguous stand on homosexuality is the Forum Against Oppression of Women (FAOW), Bombay. Its views, excerpted from an interview in *Sunday Observer*, (July 29, 1991), are given below:

“There is a basic difference between female and male homosexuality,” says Flavia Agnes, a lawyer and activist of FAOW. “Lesbianism is an integral part of the women’s movement for liberation. It constitutes an important area of their struggle against the exploitative principles and institutions of patriarchy. Lesbianism questions and threatens the existing male-dominated social order in a way that male homosexuality does not.

“Many women in the movement turn to lesbianism or bisexuality as a conscious political choice. For they cannot reconcile their radicalised understanding of themselves and of women in general with the inequality, exploitation, lack of respect and understanding, and often blatant physical force that characterise typical heterosexual relationships, whether in marriage or out of it.

“For women, sexuality does not begin and end with the physical. It embraces the emotional, intellectual and all other needs of a dignified individual. Most women seek and receive emotional strength and understanding not from their male partners but from other women. Now, with growing education, economic independence and social mobility among women, they have become even more aware of the shackles of the traditional heterosexual relationships, and also of their own power to create new relationships.

“Lesbianism should not be understood in the narrow sense of the actual sexual act. Physical intimacy comes very naturally to women. Thus, when one shares everything else with a close woman friend, sexual sharing becomes just a natural development of the total relationship.”

FAOW had this to say about lesbian relationships in a book brought out last year to mark its tenth anniversary. “It is true that sexuality has a very important place in our lives and, so far, we have been taught to only think of heterosexual, preferably monogamous, relationships, irrespective of what they may cost us. We all feel committed to challenge this as the ‘only’ view of our sexuality ... In the present society, individuals are moulded into accepting heterosexuality. Should not every individual be given the choice and the right to define his or her own sexuality?”

Gay People and the Media

The media has generally been far less tight-lipped about gay life in India than activists and bureaucrats. Sympathetic coverage has been provided over the years by such magazines as *Sunday*, *Society*, *Femina*, *Sunday Observer* and *Sunday Mail*. *Stardust*, August 1991, printed “the film industry’s verdict on homosexuality” and *Gentleman* magazine, in the same month, carried a feature “GAY: Everything You Wanted to Know About homosexuality but were Afraid

to Find Out.” The latter article ended with a characteristic disclaimer from the author, Shridhar Raghavan: “the writer of this piece is not gay, neither does he have any relatives, friends, acquaintances or colleagues who are homosexual.” This rider brings to naught an otherwise sympathetic article by revealing what a despised, shameful thing the author thinks being suspected to be gay is. Is the author aware that many gay people live through the agony of being assumed to be non-gay? His last comment is: “He cannot help it if they are nice people.” It seems that if gay people are nice, it is certainly not with the help of disclaimers of this kind!

Even the *New York Times* recently carried a major article on gay life in India – “Coming Out in India, With a Nod from the Gods,” (August 15, 1991) But our own *Times of India*, *Hindustan Times*, and *Statesman* have yet to find the subject worthy of serious comment. *Indian Express Magazine*, April 21, 1991, printed an in-depth review of *Mast Kalandar*, a Hindi film with Anupam Kher playing the central character of a caricatured gay man:

“You can think of him as a new kind of vamp in Hindi cinema. The bumbling mohalla cop falls in love with this flaming man of orange hair and mincing walk. His own taste, however, runs to the brawny bad guys who keep running away from his fluttering eyelashes and eager fingers. It’s a complicated kind of love triangle – an all-male one...

“In folk literature, like the stories collated by Vijay Dan Detha, the theme of homosexual love is not unknown. But it was Vijay Tendulkar’s *Mitra ki Ghoshta* in the ‘80s which first spoke of a young collegiate’s lesbian experiences. The scandal that ensued, and her rustication from college, unfortunately only sensationalised the theme.

“A lot more complex in its treatment is the more recent play, *The Plural of One*, by Nasima Aziz, which the theatre group Ruchika successfully staged in Delhi. Developing the theme of the loss of innocence, the play depicts how a young girl stumbles upon a homosexual relationship between two men she is extremely fond of...

“Obviously, Indian homosexuals who are trying to come out through magazines like *Bombay Dost* are not going to like the Pinku brand of caricature.

As Gore Vidal argues in his essay *Pink Triangle and Yellow Star*, like Jews, homosexuals are a minority that continues to suffer discrimination. Hindi cinema has also identified its own minorities: Christians, Parsis, Sardars, and Banias are the butt of innumerable jokes. With Pinku, no doubt, they will add gays to their bag of gags.” (“Bollywood Goes Gay,” by Gayatri Sinha)

The Sunday Observer, on 29 July 1990, carried a full-page feature titled “A Quiet Assertiveness – The new homosexual movement in India,” by Sudheendra Kulkarni and Prabha Jagannathan. It documents that “Firaq Gorakhpuri, an eminent Urdu poet who taught at Allahabad University, loved men. On his retirement, his students feted him at a public function in which one young man, his heart heavy at the departure of the much-loved teacher, stood up and asked, “Firaq Saab, you are now going, but what will happen to us boys?” The great poet replied nonchalantly, “Don’t you worry. One Gorakhpuri may be going, but he has left behind many a Gorakhpuri amongst you.”

“Among Hindi poets, references to homosexuality figure in the works of Gajanan Madhav Muktibodh and Suryakant Tripathi Nirala. One of Nirala’s poems specifically mentions, “*Maine uski ore stri bhav se dekha* (I looked at him as a woman would.)”

Un-Parliamentary References

United News of India (UNI), on September 5, reported the following exchange from Parliament: “The bachelor status of the Bharatiya Janata Party leader, Mr. Atal Behari Vajpayee, became a source of humour in the Rajya Sabha again today when he accidentally addressed the chairman, Mr. Shankar Dayal Sharma, as *mahodaya* (madam).

“Mr. Vajpayee had been engaged in a verbal duel with Mrs Bijoya Chakravarty when he turned to address the chairman, and was caught unawares. When Dr. Sharma remarked that Mr. Vajpayee was addressing woman “even in his dreams,” the ebullient BJP member quipped that there was something of woman in every man, and every man was *ardh-narishvar* (half man, half woman).

“Dr Sharma remarked amid laughter that he was surprised to know that even Mr. Vajpayee was *ardh-narishwar*.” (Courtesy: *Bombay Dost*)

The only other known reference to this subject in Parliament was during Mrs Gandhi's last term as Prime Minister (1980-84). When questioned by a Member of Parliament whether homosexuality would ever be decriminalised in India, she replied, "Not in my lifetime." (Communication from a Delhi University lecturer)

Not Abnormal

Of all the replies received by ABVA to its circular, a few more truly inspiring – as they confronted the issue head-on – one, from Prof M.P.S. Menon, Head, Department of Medicine, University of Delhi, has already been quoted in chapter 5. However, he adds:

"Regarding AIDS, its prevention, treatment, protection to be offered to the victims, social and economic help to be extended to them by the state and withstanding and opposing the moves of the authorities to incarcerate them, I am one with your group. You can count on my support."

Another, from Dr. Mathew Verghese, senior orthopaedic surgeon, St. Stephen's Hospital, New Delhi, says:

"People are scared to voice their opinion on homosexuality because of the fear of stigma. So far as people having sex, heterosexual or homosexual, are not harming each other or society, the State should have no role in their experience. If there is injury, psychological or physical, or coercion, then it is a different matter. But I am against the view that homosexuality is abnormal. Psychiatrists define normalcy according to the numbers of people doing a particular thing. That way, even Einstein should be called a freak, because there were few like him. It is ridiculous to say that homosexuality does not exist in India. If after such heavy adverse social conditioning, gay people exist, then homosexuality is definitely present."

An Acid Test for the State

Lastly, Paul G (sj), Acting Director of the Indian Social Institute, New Delhi, gave us this valuable comment:

“Each society creates its own ‘public morality’ expressed in laws and accepted norms of behaviour, even if not written. This is the way a society ‘stabilises’ itself. If one goes deeper into the matter however one would perhaps perceive that this “stability” is promoted and enforced by some dominant groups and vested interests. Public morality therefore also has a “political” aspect. In modern times, the “State” is the “protector” and the “promoter” of public morality.

“Since, however, this is a historical process, it often happens that laws and rules that had a ground at a certain period of human development and knowledge, continue in existence. This may be so even though the earlier grounds no longer exist or are greatly undermined by the expansion of new knowledge. Some social groups may have a vested interest in the perpetuation of such a situation. There is then likely to be fierce “controversy” between some groups holding on to traditions and other groups clamouring for new laws in line with the development of scientific knowledge. This is what is happening today in many societies as regards homosexuality.

“Religious groups, because of their special, almost professional interest in morality are entering the arena of debate. There is a clash between two groups of articulated theological schools. Traditionalists and innovators disagree about sex because they disagree about the universe, man and god. The opponents face each other on philosophical and scientific understandings of biology, anthropology, culture, and politics. This is a very complex phenomenon. Traditionalists may not challenge the “spirit of the age” but they ignore it only at heavy costs. In fact, churches that tell their faithful to live on traditional sexual life without helping them to find alternatives are failing in their responsibility.

“It is now widely accepted that genetics and hormonal influences are involved in homosexuality and that there is an interaction with the environment. It is interesting to note that some of the Christian churches have of late come to a new understanding of homosexuals. We quote a piece of information, which appeared in *Star News*, a semi-official news agency of the Roman Catholic Church in South Asia:

““The Evangelical Church in Berlin-Brandenburg is the first German Lutheran church to publicly affirm homosexuality as “neither sinful nor a

sickness, but a different expression of human sexuality.” In an Aug. 2 statement, the Church leadership called on their congregations to accept homosexual Christians as sisters and brothers who should not be made to conceal their sexual orientation. The Berlin-Brandenburg church also set a precedent in openly acknowledging the *substantial complicity* of the churches in the social marginalization of homosexuals. The statement which was issued in response to an anti-homosexual attack by skinheads in Berlin on May 25, recalls the German churches’ silence while thousands of homosexuals were being murdered in German concentration camps during Nazi rule. Declaring villeinage to be unacceptable in dealing with social issues, the statement said tolerance of social minorities such as homosexuals is needed.”(*Star News*, Oct. 5-12,1991, p.14)

“Two points can be made here. First it is remarkable that a Roman Catholic semi-official organ judged it worthwhile to publish this piece of news, given the rather widespread adverse bias prevailing on this question among the readers. The second point, of greater importance, is the recognition of the rights of the homosexuals which is in line with the new awareness gaining ground in all cultures and societies. No open society or religious structure can afford to remain closed to the data of biology, psychology and anthropology. This recognition will have to find its expression in secular legislation as well as new rules enacted on religious grounds.

“Although this question seems to involve only a small minority group, it is a test case for the State. In recent history, the non-recognition of such small groups or their eventual persecution by the State has proved that this is a sure sign of an authoritarian regime bound to violate human rights in many other spheres.”

8. RIGHTS AND WRONGS – THE HUMAN RIGHTS OF GAY PEOPLE

“Shall I say what strength you are –
you, whom I see everywhere –
in the faces of women on the street –
you, imprisoned in our eyes,
our madness and our pain –
waiting for the world to grow sane.”

(From “Two Women” by Ruth Vanita, *Manushi*)

Homosexuality challenges widely held assumptions about masculinity and femininity, about the way men and women relate to each other. Not surprisingly, its existence is either vigorously denied or subjected to abuse and ridicule. The fact that many gay men and lesbians feel obliged to conceal their sexual orientation makes it difficult for them to assert their civil, political and cultural rights, as individuals and as members of a sexual minority. Neither the government nor civil rights groups even acknowledge that homosexuality exists, leave alone address gay people’s experiences of discrimination.

Whether it is blackmail or physical violence, verbal abuse or police harassment, forced heterosexual marriage or denial of homosexual marriage, gay people, *as gay people*, live like second-class citizens, unable to obtain fair treatment because of their “wrong” sexuality. The question of the human rights of gay men and lesbians is not about whether or not people approve of homosexuality or the concept of gay identities. Rather, it is a question of equality under the law and under human rights covenants, like the International Covenant on Civil and Political Rights, to which India is a signatory.

The Marriage of Lila and Urmila: A Test Case

“In December, 1987, policewomen Lila Namdeo and Urmila Srivastava of the 23rd Battalion stationed in the outskirts of Bhopal, capped their year long friendship by marrying each other. The wedding consisted of a simple ritual of exchanging garlands, a *gandharva vivah*, conducted by a Brahmin in a Hindu temple at Sagar. Their parents, who had consented to the wedding, were also present at the ceremony.” (*Trikone*, Mar. 1988)

These constables became frontier women in the country's social landscape with their courageous unusual marriage. Their act provoked a sensational stir as the nation struggled to grasp the implications of a public lesbian marriage. The male psyche, with its belief about the power to penetrate and thus satisfy women, was dealt a hard blow. Activist organizations, including most women's groups, remained tightlipped. Yet, how could lesbianism in India still be denied? These women after all were not upper class, westernized women. They belonged to a small town in Madhya Pradesh and chose to solemnize their companionship. "*Joda bana liya* (they are now a couple)", said one of their colleagues. (*TOI*, Feb. 23, 1988)

Particularly shameful was the hypocritical silence of the intellectual class on the human rights of these women. Lila and Urmila were discharged without a show cause notice. "We were kept in isolation and not given food for 48 hours. We were coerced into signing papers which we had not read. We were given some cash and our company commander, R.L. Amravanshi, accompanied by three havaldars deposited us at the railway station in the dead of night. They warned us against returning to the barracks." (*TOI*, *ibid*)

As if these human rights violations were not enough, the two women were subjected to a medical examination by Dr. B.K. Mukherjee, the Director-General of Police (DGP), Madhya Pradesh. When questioned whether the women had "displayed any lesbian tendencies," the DGP responded: "No, this is absolutely false, we got them checked medically and found nothing." (*Illustrated Weekly*, Mar. 20, '88)

What exactly did Dr. Mukherjee hope to find? Do lesbian women grow something special to mark their identity? Further, can such demeaning check-ups, under police and medical authority, be considered ethical or legal?

The bureaucratic response to the lesbian marriage was a curious mixture of denial and hostility. R.L. Amravanshi, Commandant of the 23rd Battalion stated, "This sort of behaviour will not be tolerated by us." Narendra Virmani, Inspector General of Police (IGP), in charge of Special Armed Forces, Madhya Pradesh claimed, "Such women don't make good officers." Yet, he held, "that kind of physical relationship that could be between a man and a woman or even in a person with homosexual tendencies, that was absent here. There was not even

touching, kissing, nothing.” Once again, contradicting himself, the IGP said, “this has never happened before ... it is the first time...” (*Illustrated Weekly*, ibid)

Did they or did they not touch and kiss? How does the IGP know one way or another? Is it any of his business to pronounce on such a private matter? How does being lesbian in any way affect a woman’s performance as an officer of the Indian Armed Forces?

It is common knowledge that whatever happens between men and men, and women and women, emotionally and sexually, regularly happens between men and women also. Why then should gay marriages not be recognized as legally and socially valid? Marriage offers social prestige and substantial legal benefits to citizens allowed access to it. How then can some citizens but not others be allowed this privilege? Is there any reason why gay marriage should not be permitted that does not equally apply to a heterosexual couple that is physically incapable of having children?

Further, why should the definition of marriage be confined to the legal solemnization of a sexual relationship? Shouldn’t friends not in a sexual relation to each other be allowed to marry, with the legal consequences the status brings?

Isn’t it time that jurists, civil rights organizations and women’s groups have a public debate on these questions?

Friendship Agreements – A Humane Solution

While the government, bureaucracy and citizens’ groups have yet to say anything in response to the above questions, two young village women from Baroda district have shown the way by entering into a “*maitri karar*” or friendship agreement. “The women, Aruna Sombhai Jaisinghbhai Gohil, 31, resident of Vadia village, of Savli Taluka and Sudha Amarsinh Mohansinh Ratanwadia, 29, of Varsada village in Naswadi taluka entered into the agreement before a notary public here.

“This is the second *maitri karar* in Gujarat between two women. In a signed statement at the city court, the two declared that they had known each other since 1978 when they were together at a teachers’ training school. Since then, they had

been working as teachers in different parts of Baroda district, and were now based at Vadadhali village.

“During all these years, the two women had been living together. Since they did not wish to get married and wanted to continue living together, they decided to enter into this friendship contract, the statement signed by them said.” (*Indian Express*, May 6, 1987)

Not So Lucky

Unfortunately, not all women are as lucky as the two women from Gujarat in finding the social support or economic independence to resist marriage with men. For instance, in October 1988, two nurses of a local hospital in Meghraj (population: 10,000) in north Gujarat committed suicide. “The reason: unable to bear the pangs of impending separation, Gita Darji and her spinster friend, Kishori Shah, both 24, ended their lives by hanging themselves from a ceiling fan in the hospital’s staff quarters. It was the third lesbian relationship to surface in the state this year...

“When the police began their probe they found a diary containing suicide note signed by Kishori and Gita - in which they said they did not blame anybody for their action - and two sets of letters. Close friends since they did a nursing course together at the Ahmedabad Civil Hospital, the two stayed together at Meghraj though they were allotted separate flats. In a letter to Gita, Kishori writes: “I can’t live and sleep without you.” The letters also reveal that Gita’s husband Manoj – whom she married last February – abhorred the relationship between Gita and Kishori. Some months ago, he complained to her brother Dashrathbhai, who made Gita apply for a transfer out of Meghraj.” (*India Today*, October 15, 1988)

Together, Always

The following incident from Cochin was reported in *Gay Scene* (Nov-Dec 1980): “Mallika (20) and Lalitambika (20), both students of pre-degree course of Keralavarma College, were very much in love with each other. When the examination result came out, it was found that Mallika had failed and Lalita passed. This was too much for the girls to bear, for separation was inevitable. So

they decided to commit suicide. On 29 June they tied themselves together and jumped into the strong currents of Cochin channel from a ferry but a sailor and a fisherman, somehow, managed to reach them in time and were able to save them after a long fight in the surging waters.

“The police charged then with attempted suicide and found among other things a letter and a greeting card. The front of the double-fold greeting card had a silhouette of a kissing couple with the backdrop of a flaming sunset – inside it had a note from Mallika: “Lali, After all everybody knows about our love, so here’s a thousand kisses for you, in public...” Lalita scribbled back, “Come to me, I shall take you in my arms. I shall cover you with kisses. You shall sleep in my bosom and afterwards, maybe, we shall have a little quarrel.”

“The letter dated 27 June was meant for the parents. Lalita wrote: “I cannot part with Mallika ... now we are destined to go to different directions. I am not persuaded by Mallika to do this ... bury us together.” It is reported that relatives of the girls are still unable to grasp the implications of the relationship. Mallika’s elder brother is reported to have said that the girls have agreed to ‘try and forget each other.’”

The same issue of *Gay Scene* reports another incident: “on 30 November 1979, in Ahmedabad, unable to live in separation after their marriage less than a year ago, two childhood friends, Jyotsna and Jayashree ended their lives together jumping in front of a running train. The police recovered the mutilated bodies of the two women near the Gandhigram station. A joint letter by the two shows that they had entered into a joint suicide pact.”

How many more women coming from non-urban backgrounds have to die before Indian society acknowledges the existence of lesbianism in every social and economic strata and gives support to lesbian relationships as valid and healthy? Lesbian women often get married before they become aware of the true nature of their sexuality, some may marry in an effort to suppress it, and others marry for reasons unrelated to their sexual orientation – from economic necessity or for the social benefits brought by the appearance of married life. However, given that so many women (and some men) are driven to suicide at the prospect of marriage, and even after it, must we persist in peddling it as the only normal way imaginable to humans of living and loving?

Biological Terrorism

The “normality” assigned to marriage in our society is underpinned by a preconceived idea of what a man should do and be and what a woman should. Persons who deviate from these social roles, either in their refusal to marry or to reproduce, or in their failure to appear “masculine” or “feminine” are routinely ridiculed or pressurised. The heaviest penalties are reserved for women who don’t fit the “norm,” gay men, and the economically poorer in both the previous categories. This cruel situation is reflected in the case of a young woman from Karimganj, Bihar:

“In 1979, an Indian girl aged 19 years was refused admission to a junior college at Karimganj unless she produced a medical certificate to confirm her sex. The girl had passed her higher secondary examination in 1978 and was an athlete. Later she developed masculine features like a moustache. She was also then denied an opportunity to participate in a Kabaddi tournament, a game in which she had won laurels in the past. Her doctor was of the opinion that she was undergoing sex transformation and suggested surgery to complete the process.” (“Legal Implications of Sex-Change Surgery,” by Kusum, *Journal of the Indian Law Institute*, Jan-Mar. Vol. 25 No.1)

Several questions need to be asked: Why should this woman be asked to undertake mutilating surgical procedures so as to conform to stereotypical gender expectations? Is it not an established scientific fact that there is no such thing as a pure biological sex, male or female? Is it ethical and legal for a medical professional to push sex-change surgery given that it is widely known that most such changes from female-to male are unsuccessful? Should the doctor not first resort to counselling the person about the normality of gender incongruity? When will the Indian Law Institute and Medical Council of India take a stand on this issue?

Blackmail, Violence and Police Harassment

Attacks against gay people in public places of urban areas are extremely common. Gay men and lesbians more often than not do not report crime against them. The reasons seem to be that violence, and other human rights violations against them, often result in intense feelings of shame, as if somehow they had

brought the assault upon themselves. This sense of self-blame is, of course, not unique to gay victims of crime, but is exacerbated in that many gay men and lesbians have not arrived at an acceptance of their own sexuality, and often they have incurred assaults in places associated with sex – illicit or not. In addition, there is the fear of being identified as gay in describing assaults. These feelings generally deter gay persons from going to the police, civil rights organizations, even to close friends and family members for redressal and support.

In the absence of an option to live open, socially legitimate relationships, many gay men resort to “cruising” in parks, on certain streets, sometimes in public toilets, in search for sexual partners. This may be the search for an ideal partner, more honestly for one among many, or a “safer” option for a man who does not feel able to risk the degree of emotional commitment, or the possibility of social disgrace that may arise from a more “steady” relationship. Lesbian women in India don’t generally resort to cruising in public places. This may be because men, even though they may be gay, have the privilege of a far higher degree of safety than unaccompanied women in public places. It may also be because lesbian women (and many gay men as well) don’t find cruising, or a “search” for sex, a palatable or edifying option.

All gay persons however find themselves in a highly vulnerable situation because the hidden nature of their sexuality at work, school, place of residence, family home, and among friends makes them easy prey for blackmail, extortion, verbal and physical violence, and police harassment. ABVA came across numerous such instances, in print and in first-hand interviews. A few of these are given below. We would like to emphasize that the actual incidence of such crimes is at least hundred-fold higher than what any non-gay citizen may imagine.

Help, Someone

“I had a bad experience I would like to share with all readers. There was this man who tried to befriend me. Since I did not fancy him in any way, he made enquiries about me and along with two others started blackmailing me. They told me that if I did not go to bed with them they would inform my folks of what I was ... One fine night, at 12:30, these three men came to my house and started shouting to all the neighbours that I frequented Subhash Park in Cochin. Luckily, only an elder brother of mine was at home, and somehow I managed to escape by saying

that these people had an axe to grind. Another time, the three tried the same tactics in a bus. It is four years since all this happened, but wherever they see me they still try and make trouble for me. I don't know whom to turn to. The police are of no help here in Cochin and it will only cause me trouble."

L.J. (Cochin) (*Trikone*, May '87)

Harassment in Bombay

"Since the last two months, Matunga police have been incessantly carrying on a drive against gays gathering in Maheshwari Gardens. Gay men are being arrested for no reason except that they "look" like "homosexuals." The punishment is a Rs. 25 fine and a beating with lathis.

"As an explanation for this sudden anti-gay drive, one constable has hinted at "complaints" from residents. Another has said, "Yeh gaandu log ko sikhaana chahiye (these homosexuals must be taught a lesson)."

"Gay men have been meeting here for a long time without creating any public nuisance. The presence of several colleges and an important technical institution nearby have brought in younger gay men. Other regular meeting places of gays were getting too commercialized, hence they needed a less-exploitative site.

"Instead of curbing the anti-social elements who prey on people visiting Maheshwari Udyan, the police is harrassing gays. It is observed that the police let go the richer gays (who wear expensive clothes and use imported after-shave lotions), and go after the poorly dressed boys. This shows a class bias in that the rich can get away with anything." (Ashok Row Kavi, *Trikone*, May-June 1990)

Not So Gay

- "His name was Avinash. He was not highly educated, and had a clerical job. We spoke in Hindi. He had reason to be cautious. He'd been blackmailed once by someone he met in the park, which threatened to expose him. Avinash lost a watch in the bargain. He also told me about plainclothesmen entrapping gay men in Central Park, New Delhi." (*Trikone*, Sept. '86)

- A friend of mine gave “a well-spoken boy” his number at their first meeting. The guy asked for “a small loan’ (Rs.100) at the second meeting. When my friend stated that he didn’t think they knew each other well enough for a loan to be asked for or given, the answer he got was, “And what would you do if I came to your home and asked for it?” My friend panicked and reported the matter at the Police Station. A mistake. The Police, as always, will be on the side of the guy with the “better status.” (J.K., Bombay, *Trikone*, Jan.’87)
- “Naturally gays come out only in the night, the only places they frequent are some railway platforms like Dadar, Bandra etc. Also the gays visiting these places fall easy prey to cheaters/robbers who sometimes pretend to be gays and later rob you. Gays going in railway loos are caught by railway cops, whose only intention is to extract lots of money and leave you.” (K.I., Bombay, *Trikone*, Sept. ‘87)
- Prisoners in a Bangladesh jail cut off another convict’s penis when he made “homosexual advances” towards his cellmate. (*Evening Standard*, 12.4.90, reported in Shakti Khabar)
- “Policemen are only a slightly lesser menace... They regularly exploit this legal provision (section 377 of the Indian Penal Code) to make a quick buck. In Madras’ Marina, for instance, constables scour the beach to catch homosexuals in compromising positions. And in Bombay, members of the Railway Protection Force board the last suburban train at either Churchgate or Marine Lines every night to waylay gays. The approach is the same – to threaten to throw the book unless they cough up. Most gays argue that the only solution is to decriminalise...” Only then will the police refrain from whipping out their belts, flashing their credentials and then demanding money or a drink,” one gay man says.” (“The Love That Dare Not Speak Its Name,” *Sunday*, 31st July, 1988)
- “He entered Connaught Park and my heart missed a beat. Moderately tall and handsome, he immediately attracted my attention. When he sat down, I started to talk to him. Jeff was a Belgian tourist. Initially, the conversation like the atmosphere in the park was strained. However, as soon as we both discovered each other to be gay, an unspoken bond developed and we started to talk in earnest, sitting on the wet grass, oblivious of everything else.

“Twice or thrice, Jeff told me while we talked that there was someone lurking behind us. I looked back and saw only the bushes. I finally got up to check more carefully. A man suddenly jumped out from behind the bushes and another one ran towards us from another side. The two men were policemen and told us in a threatening, menacing tone that they had seen what we were doing and we would have to go to the police station with them.

“They separated the two of us and threatened us with dire consequences. Initially, I argued but soon felt scared to my bones at the thought of a scandal and what it would do to my career if I were arrested, and that too for a crime I did not commit. Nothing like this had ever happened to me. If this is the lot of gay men in India, then no wonder so many get married and lead a double life. It’s safer.

“Being gay and being gay publicly in India are two different things. The latter entails endless social and professional retribution, which I was not prepared to withstand. The only way out was to pay up. Between the two of us, we paid the cops Rs. 400. I have never felt more humiliated in my life.” (written for ABVA by Roshan (not his real name), 30; the incident occurred in early 1991)

- “In Calcutta, the biggest cruising spot is the area around Shahid Minar. Every evening, but specially on Sundays, this place becomes like a mini mela ground with magicians, medicine men and all kinds of performers and acrobats. Those who remain after sunset, sometimes hundreds of men, are there for a specific purpose, at least 90 per cent of them.

- “The biggest menace while cruising here is the danger of the police. Many of them are in plainclothes. They generally lure you with a smile, to show they are interested. Then, after enjoying, they catch you by the neck, sometimes thrash you in front of everyone else, always take all your money and valuables. Often they take people to the Hare Street police station nearby. At the thane, you are fined for public nuisance. If you cannot pay, you have to deposit your watch until you return with the money. I know at least ten people personally who have had to pay in this way, the last incident occurring as recently as August this year. I think the police must be catching ten to twelve every Sunday night.

“Another horrendous incident in Calcutta was the murder in January 1982 or 1983 of a 25-year old gay man. It was reported in the Statesman. This man

would often cruise on Red Road and near Fort William, an army camp. We all knew of him. He had a steady friendship with a military man. I remember, around Republic Day, he mentioned to some friend that he was being pressurised to have sex with three other Army men who were in Calcutta. He was, however, not interested in anyone except his special friend. Soon after, his body was found at the nearby Mohammaden Sporting Ground, anally raped several times and murdered in a horrible manner.” (told to ABVA by a gay man, 30, who works in a bank in Calcutta)

- “I have been a homosexual for many years now. When I was an adolescent, I used to work as a waiter in a small cafe in central Calcutta. One night about seven years ago – it was Diwali night I remember – I was strolling through the Maiden and was accosted by four men. They beat me and then made me take off my clothes. And then they raped me brutally. I was badly injured and even needed to have stitches around my anus.

- “Somehow, the experience changed my life and I have not been the same again. I don’t like to call myself a prostitute – I don’t like the word. But all kinds of men come to me – doctors, lawyers and those from the lower class. I know that I was forced into this. I don’t like what I am doing and feel guilty about it. It is not safe and very humiliating.” (Shyamal Sarkar, 24, in *Sunday*, 31st July, 1988)

- “In January, 1991, I was in a toilet in Connaught Place, New Delhi. A man standing next to me at the urinal offered me a come-on smile and when I smiled back, he promptly caught me by the scruff of my neck and dragged me outside. I almost fainted from fear as it was five-thirty in the evening, when all my acquaintances leave their offices in C.P. to return home. I felt so ashamed and kept cursing myself for having entered the toilet.

“By this time there were two policemen, both in plainclothes. They took Rs. 100 from me and also made me write a confession that I had been in the urinal, had touched the policeman’s genitals and was admitting to it. I reached home in a feverish state. The policeman had taken my address from an identity card in my pocket. What if they came to my house and threatened me, asking for more money? What if my parents found out that I was gay and looking for sex in public places? But where else could I look for it? I still feel terrified at when I think of

the public humiliation I experienced that day.” (told to an ABVA member by Ranjan (not his real name), a young student.)

With You, For Always

What alternatives for safe and healthy expression does society provide the gay men whose experiences have been detailed above? Under what provisions of law are gay people harassed by the police? As discussed in chapter 4, section 377 of the Indian Penal Code criminalizes a particular act – sodomy (presumably penetrative anal sex). It cannot be used to arrest a gay man merely cruising in a park or toilet. Homosexuality per se is not a crime. Someone cannot be arrested merely for being *homosexual*. Even most gay people are not aware of this fact and continue to be charged illegally and exploited.

A recent report on ragging in Indian colleges says, “On many occasions, the humiliation may even extend to sexual molestation and, in the case of male students, sodomy.” (*Sunday*, Oct.13 ‘91) Neeraj Kumar, Deputy Commissioner of Police (DCP), (South), New Delhi agrees – “Ragging has definitely assumed a more vicious and sexually-oriented form.” Is section 377 applied with as much enthusiasm in such cases as it is used against gay men, even where there has not been any sodomy?

In fact, Virendra Singh, the Assistant Commissioner of Police (ACP), Crime, New Delhi revealed to ABVA members during an interview on October 15, 1991, that the city crime records for 1990-91 show that not even one case was registered in Delhi under section 377.

Does this law then continue to remain on the books merely to create a “class” of vulnerable People for the purpose of harassment and extorting money? Women in prostitution are similarly victimized under section 8 of the Immoral Traffic Prevention Act (ITPA) which does not criminalize prostitution as such, but only “soliciting” in public places. Clients, pimps and brothel-owners are predictably let off the hook.

If gay men in parks and public toilets have been trapped by the police for indecency, soliciting or public nuisance, exactly what are the local laws on the basis of which such action is taken? Even if such laws exist, the police seems to

show far greater zeal in catching gay men committing indecency offences and a corresponding lack of it in pursuing people who have blackmailed or assaulted gay men and lesbians. Have Station House Officers (SHOs) of various police stations explicitly authorized their officers to extort money from gay men in public places without following due procedure of law, like registering the crime, providing a receipt of fine money received, etc.? Are the SHOs aware that it has been the experience of numerous gay men that constables first have sex with them and then threaten them with a view to extracting money? What about the practice of using undercover cops, in plainclothes, to lure men and then trap them? Are policemen, say in New Delhi, specifically authorised to use such methods? What purpose do they serve?

Instead of devoting such enormous resources on keeping public lavatories and parks under surveillance, and demolishing public toilets (three are reported by gay men to have been destroyed in Bombay due to the “homosexual menace”), ABVA suggests the police do the following:

- Invest resources in keeping streets well-lighted and making them safer for women.
- Train members of the police force to get over their anti-“homosexual” feelings and to be sensitive to the particular vulnerability of gay people to threats of blackmail.
- Establish special police cells for receiving and acting upon complaints by gay men and lesbians of physical violence, harassment, verbal abuse and blackmail by other citizens, including members of the police force. Encourage gay people to report crimes against them. Send a stern signal to those who prey on gay people that anti-gay crime will not be tolerated.
- Take the initiative in providing safer and less controversial meeting places for gay men and lesbians. For a start, the police could lead the call to repeal section 377 by making public its records to show that it is almost never officially used.
- Acknowledge that the problem of ‘public indecency’ or ‘public nuisance’ has as much to do with the general public’s prejudices and embarrassment about gay sexuality as with any real issue of harm or offence.

Unless the police authorities take these concrete steps, their slogan “With You, For Always!” will continue to remain an ominous Big-Brotherly warning for gay citizens.

Amnesty International and Homosexuality

After years of lobbying and negotiations by European gay rights organizations, Amnesty International (AI) has in recent years taken a stand on homosexuality. The main report of its research project, “AI and Homosexuality” was released on April 8, 1987. It summarizes Amnesty’s exhaustive research into the persecution of gay people all over the world, but concentrates mainly on imprisonment of gay persons. This is because Amnesty remains a prisoner-oriented organization. The main conclusions of the report, given below, need to be noted and adopted by the Indian government and civil liberties organizations.

- * The right to someone’s (homo) sexuality can be interpreted as including both the (homo) sexual inclination as well as (homo) sexual conduct.
- * A negation of the above would be similar to declaring that someone has the right to leave one’s country for conscientious reasons but, if such a person is imprisoned for attempting to do so, to turn away stating that this is not within the mandate.
- * The right to homosexual inclinations inalienably attached to homosexual conduct, should be considered as the right to a confirmation of someone’s personal and essential features and someone’s convictions.
- * These rights are to be considered as fundamental as can be seen both in the jurisprudentia of the International Human Rights Instruments, as well as Amnesty International’s recent mandate.
- * There can be no justifiable ground for a limitation to these rights because of an over-ruling interest, provided these rights are exercised:
 - 1.between adults able to consent
 - 2.who are consenting, and
 - 3.while in private.

- * The principles of independence and impartiality upheld by Amnesty International so long and so firmly should prevent A.I. from being influenced in its decision about this matter by the (expected) reaction from outside.

Know Your Rights

Gay people in India should know that wrongful restraint or confinement of any person is an offence under the Indian Penal Code (sections 341 and 342), punishable by imprisonment and fine. Under section 351, *assault* has been defined as follows:

“Whoever makes any gesture, or preparation intending or knowing it to be likely that such gesture, or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.” Assault is punishable by imprisonment and/or fine.

So is *Extortion*, which is defined by section 383 as:

“Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits “extortion”.” Moreover, putting a person in fear of injury or of death or grievous hurt is also an offence.

Most importantly, *it is a serious offence for a person to ask for money under the threat that he has caught you committing an offence under section 377 (sodomy, unnatural offences) and will accuse you if you don't pay up.* Section 389 says: “Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed or attempted to commit an offence punishable with death or with imprisonment for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine; *and, if the offence be punishable under section 377 of this Code, may be punished with imprisonment for life.*”

Any person, *or any third person*, can file a First Information Report (FIR), at the police station in the area to initiate action against an offence. You must insist that you be given a copy of the FIR.

Offences under section 377 are *cognizable, non-bailable offences*, triable by a Magistrate of the 1st class. This means that the police can arrest you on the spot without a warrant, and you can get bail only on the direction of the Magistrate. However, *whatever the offence, you cannot be kept in police custody for more than 24 hours without being produced before a Magistrate*. Special laws like TADA, etc., have been exempted from this requirement. You also have a constitutional right to be represented by a lawyer.

Gay people, and others are urged to file FIRs and complaints in cases of blackmail, violence, and other harassment. Without this step, the machinery of the law cannot be set in motion.

The Stonewall Riots

The following paragraphs, extracted from *Intimate Matters: A History of Sexuality in America*, by John D' Emilio and Estelle B. Freedman (1988) describe the Stonewall riots of 1969 in New York, USA, which mark the origin of the modern movement for gay rights:

Few social movements can trace their birth to an event as unexpected and dramatic as the one which gave life to gay liberation. On Friday, June 27, 1969, a group of Manhattan police officers set off to close the Stonewall Inn, a gay bar in the heart of Greenwich Village. Raids of gay bars were common enough occurrences in the 1960s, and the police must have viewed their mission as a routine part of their weekend duties. But the patrons of the Stonewall Inn refused to behave according to script. As the officers hauled them one by one into police vans, a crowd of onlookers assembled on the street, taunting the cops. When a lesbian in the bar put up a struggle, the Village Voice reported,

“the scene became explosive. Limp wrists were forgotten. Beer cans and bottles were heaved at the windows and a rain of coins descended on the cops... Almost by signal the crowd erupted into cobblestone and bottle heaving... From nowhere came an uprooted parking meter – used as a battering ram on the

Stonewall door. I heard several cries of “let’s get some gas,” but the blaze of flame which soon appeared in the window of the Stonewall was still a shock.”

Although the police officers were rescued from the torched bar, their work had just begun. Rioting continued far into the night, as crowds of angry homosexuals battled the Police up and down the streets of Greenwich Village. (Working class lesbians and “queens” (“effeminate” homosexual men), were in the forefront of the confrontation.) The following day, graffiti proclaiming “Gay Power” was scribbled on walls and pavements in the area. The rioting that lasted throughout the weekend signaled the start of a major social movement. Within weeks, gay men and lesbians in New York had formed the Gay Liberation Front (GLF), a self-proclaimed revolutionary organization in the style of the New Left, seeking justice for homosexuals. As word of the Stonewall riots circulated among radical gay youth and other disaffected homosexuals, the gay liberation impulse took root across the country, spawning scores of similar groups.

Dramatic as the rioting was, it was not sufficient to spark a nationwide grass-roots movement. The speed with which gay liberation grew testified to equally profound changes in the structure of gay life and the consciousness of homosexuals in the preceding years. Throughout the 1950s and 1960s, a gay subculture had been growing, providing the setting in which homosexuals might develop a group consciousness. The weakening of taboos against the public discussion of homosexuality, the pervasive police harassment of the era, and the persistent work by a small coterie of pre-Stonewall activists combined to make many lesbians and gay men receptive to the message of “gay power.”

If harassment by the police and criminalization in the law continue, how long will it be before Stonewall occurs in India? Will the authorities please mend their ways?

9. AIDS AND HOMOSEXUALITY

There is an intimate connection between the fear of AIDS and the fear of groups most affected by it. AIDS is a fatal, infectious illness for which there is now no cure. The fact that it was first documented in already stigmatised groups – urban gay men, poor Black intravenous-drug users, Haitians in the US – ensured that society's responses to it would be framed in terms of moralistic assignments of blame. Not surprisingly, AIDS has everywhere become a pretext for increasing the regulation and persecution of groups of people who already stand outside the moral or economic parameters of society. In particular, it has become a health and human rights crisis of major proportions for gay people all over the world. Even in countries where “gay liberation” had become deeply entrenched, AIDS has led to a re-medicalisation of homosexuality, with all the implications of surveillance, moralistic blame and discrimination.

Situation in the US

In the US, AIDS was dubbed the “gay plague” and quickly declared God's judgement of a society that did not live by His rules. An influential columnist asked that “everyone detected with AIDS be tattooed in the upper forearm, to protect common needle users, and on the buttocks to prevent the victimization of other homosexuals.” (William F. Buckley) A famous surgeon opined, “We used to hate faggots on an emotional basis. Now we have a good reason.” A senator insisted that “the logical outcome of testing is a quarantine of those infected.” (Jesse Helms) A Member of the Presidential AIDS Commission declared, “It is patriotic to have the AIDS test and be negative.” And a Texas judge, explaining why he gave a light sentence to men convicted of killing a gay man, said, “I put prostitutes and gays at about the same level... and I'd be hard-put to give somebody life (sentence) for killing a prostitute.” (1989)

What is AIDS?

AIDS, which stands for Acquired Immuno-Deficiency Syndrome, is a disease which can destroy the immune system in the body. This system is the body's main defence against infection. People with AIDS can get serious, and sometimes fatal diseases which do not usually affect people with healthy immune systems. The initial symptoms may be the occurrence over several months of

weight loss, fever, night sweats, skin rashes, diarrhoea, tiredness or swollen nodes (in the neck, underarm or groin). Multiple infections such as shingles, thrush, herpes and tuberculosis may supervene. Some people may get pneumonia, caused by *Pneumocysti carinii*, or a formerly rare skin cancer, *Kaposi's* sarcoma. At a very advanced stage, HIV may also attack the nervous system and cause brain damage.

It is commonly believed that AIDS is caused by a virus called “HIV” which stands for “Human Immunodeficiency Virus.” The virus is transmitted when an infected person’s blood, semen or vaginal fluid enters another person’s body. The most common way of spreading the virus is during unprotected, penetrative sex (i.e. penetrative sex without a condom) or when people are given infected blood or share used needles to inject drugs. HIV can also be transmitted from an infected mother to her fetus during pregnancy.

There have been no recorded cases of HIV transmission by casual contact such as hugging, kissing, mutual masturbation, sharing household objects, near a person with HIV infection who sneezes or coughs.

What is the HIV Test?

When HIV enters the body, the body produces antibodies in the blood in response to the virus. The HIV test simply looks at a small sample of blood to see whether these antibodies are present in the sample. *The HIV test should not be called the AIDS test as it does not detect whether a person has AIDS* – it can only tell whether the person who has provided that sample of blood has produced the antibodies in response to the virus that is believed to cause AIDS.

What does HIV Positive mean?

A person is HIV+ if at some point in their lives they have been exposed to the virus and were infected by HIV.

Being HIV+ does not mean that a person now has AIDS or that the person will definitely develop AIDS in the future. People have been found to have a wide range of responses to HIV infection. Some people may remain completely healthy for the rest of their lives. Other people may develop ARC (AIDS-Related

Complex) which is a condition with some AIDS symptoms but without any of the major infections which are usually associated with an AIDS illness. Other people may develop AIDS anywhere from three years to more than ten years after they were infected. There is no way of knowing at present who will and who won't develop AIDS as a result of HIV infection.

Being HIV+ does not mean that a person is immune to the virus. Unfortunately, antibodies to HIV, unlike most of the other antibodies that are produced, seem to provide no protection against HIV or AIDS.

In all cases of a person having a positive HIV test result, a second test (the Western Blot) will be performed to check the results of the first test (the ELISA test).

In a very small percentage of cases, people will test HIV+ even though they have not been infected with the virus. This is known as a “false positive” result, and it generally happens if there was a mistake in the way the test was performed, or if the person has recently taken certain drugs, including some types of birth control pills. In such circumstances, the second test will usually show that the person is HIV-. In a very small number of cases, the body does not produce antibodies at all. This is known as “silent infection”. *Consequently, a person may test negative for HIV antibodies, but still have the virus.*

What does HIV Negative Mean?

A person is HIV- if their bodies have not developed antibodies to the virus. *However, an HIV negative test result does not guarantee that a person is virus-free.* The body can take between 6 weeks and a year after infection with the virus to produce these antibodies.

If a person takes an HIV test after they have been infected, but before the body has had enough time to produce antibodies, that person will test HIV-. Tests on recently infected persons can therefore give false negative results. A negative result therefore does not mean that a person cannot transmit the virus to someone else.

It is therefore vital that people who think that they are HIV-, as well as people who think (or know) that they are HIV+, practice safer sex in order to avoid the risk of infecting others.

Transmission Issues

It must be emphasized that there are no bio-medical or physiological factors which make some groups rather than others more prone to HIV infection. The concept of “high risk groups” in the context of AIDS irresponsibly suggests that AIDS affects only defined groups to which the majority of people do not belong. It is clearly what you do (and what blood banks and blood-product manufacturers and hospitals do) rather than who you are which constitutes the only meaningful risk factor.

In other words, it is not the number of previous partners you or your partner have had but the amount of unprotected sex either of you have had which needs to be considered. *Consistent safer-sex with a number of partners may be less risky than unprotected sex with just one partner if that person is infected.*

What is Safer Sex?

Safer sex includes kissing, (mutual) masturbation, massage, rubbing bodies together, and other activities – for instance, penetration of the vagina or anus by the finger or the condom-covered penis – that do not allow blood, semen, or vaginal secretions to be exchanged among partners. Blood and semen contain the highest concentration of HIV. Any amount of blood, even one so small that it is imperceptible, can contain enough HIV to cause infection. Pre-ejaculation fluid, like semen, poses a risk of HIV transmission. Vaginal secretions have a lower concentration of HIV, but high enough to create a risk of transmission. The transmission of these fluids can take place through the mouth, vagina, anus, cuts or other openings in the skin, for instance in the case of sores and ulcers due to any Sexually Transmitted Diseases (STDs).

While very small amounts of the virus have been found in the saliva and tears of an infected person, there are absolutely no known cases of HIV transmission through contact with saliva or tears. *HIV cannot be contracted by*

ordinary kissing and there is no conclusive evidence that it is transmitted by deep kissing.

During vaginal or anal intercourse, partners must use a latex condom (other condoms are porous and do not provide adequate protection against HIV). A condom should be placed on the erect penis and unwrapped carefully so that it does not tear. After sex, it should be removed carefully so that no semen spills out. A condom should never be re-used. *Penetrative sex, anal or vaginal, without proper use of a condom, is the most risky activity from the point of view of HIV transmission.* This is so both for the person penetrated and the person penetrating. Infected semen or blood can pass from one person to another through the lining of the anal or vaginal passage and through tiny cuts that may occur. The virus can also enter the penis through the opening at the tip or through cuts or scratches on the penis. *On me, not in me* is the safe-sex slogan devised by gay men in the US.

During oral sex – mouth-to-vulva contact (cunnilingus), mouth-to-penis contact (fellatio, blow job), or mouth-to-anus contact (anilingus, rimming) – the susceptibility to HIV is influenced by how healthy the person doing the licking or sucking is from lips to stomach. For example, cold sores, bleeding gums, sore throats, and ulcers are openings that would permit HIV to enter a person's bloodstream.

Ejaculation in the mouth and swallowing semen, during oral sex on men, can therefore substantially increase the risk of HIV transmission. *Otherwise, fellatio poses a low risk of catching the virus though a theoretical risk does exist.*

Cunnilingus is safe when a barrier is used to cover the vagina. Medical journals have documented the transmission of HIV to one heterosexual man and at least six lesbians who contracted HIV through oral-vulva contact. In the West, latex squares called dental dams are already commonly used as a barrier to prevent such transmission. However, these are not available as such in India.

Situation in India

According to Indian Council of Medical Research (ICMR) figures, around 6,000 persons have been documented to be HIV positive out of over 500,000 screened. 62 cases of AIDS are officially believed to exist in India. These figures

are highly under-reported and non-representative as screening for HIV has been confined to certain groups presumed to be the “high risk” ones – women in prostitution, professional blood donors, and men who visit clinics for Sexually Transmitted Diseases (STDs). The World Health Organization (WHO) estimates that there are at least 400, 000 HIV-positive persons in this country. According to Prof. Ramachandran, biostatistician at the All Institute of Medical Sciences (AIIMS), 2 million people will have died from AIDS-related causes in India by the turn of the century. (Presentation at conference on AIDS organized by Christian Medical College, Vellore in Bombay, February, 1991)

In India, as elsewhere, the discussion around AIDS has been informed more by a sexist morality than by scientific facts. According to Dr. A. S. Paintal, until recently Director General of ICMR,

“it is women who are the lousy lot, because all the AIDS is being poured into them... If women had taken steps two years ago and stopped cohabiting with foreigners then the situation would not have become so dangerous.” (*Sunday*, 26 Feb., ‘89)

The major target of blame have been women in prostitution who are everywhere represented as “vectors of infection,” spreading AIDS to healthy men. *It is well known that women stand a greater risk of acquiring HIV infection from a man if exposed to it during vaginal intercourse than the other way round.* Needless to say, the health of women themselves is a low priority for policy makers who suggest measures like compulsory registration and HIV-testing with the objective of providing a “clean pool” of women for male clients. (“Plan to Amend Act for AIDS,” *Hindustan Times*, 3 Oct 1991)

There is moreover no confidentiality around HIV testing in India and little likelihood of doctors and nurses treating people with HIV/AIDS in a humane manner. People with AIDS are routinely thrown out of government hospitals, including AIIMS which received a huge grant to run an AIDS unit. Legislation, like the AIDS Prevention Bill, 1989, which was successfully stalled by ABVA, has attempted to legitimise forcible testing, contact tracing and isolation and arrests of people even suspected to belong to perceived “high risk groups”. Even without such laws, women in prostitution all over the country are screened for HIV with the help of the police and often confined in remand homes if they test

positive merely on the basis of the first test. In the state of Manipur, hundreds of young intra-venous drug users with HIV are kept locked in jails, even in chains at some rehabilitation centres.

Gay People and AIDS in India

Gay people in India have, so far, and for the most part, escaped the kind of scapegoating for AIDS that gay men and lesbians in some other countries have been subjected to. However, the fact that their government does not officially recognize them to exist makes them a highly vulnerable group. In the popular imagination, moreover, they have come to be perceived as synonymous with AIDS. For example, at an ICMR and Ministry of Health sponsored inter-university debate on AIDS, held in Delhi in September 1989, several students referred to “homosexual tendencies (as) one of the most predominant causes.” (Report of the Association of Indian Universities, March, 1990) As a result, gay people are both stigmatised in the context of AIDS and denied relevant safer-sex information. What do the government, health authorities and doctors claim to know about gay men, lesbians, and more generally same-sex behaviour in India?

Figures published in the ICMR Bulletin (Nov-Dec, 1990) reveal that only 6 “male homosexuals” were documented to be HIV positive out of a total of 4082 seropositive individuals. Only one out of the 57 cases of AIDS (till October 31, ‘90) was thought to have contracted HIV by “homosexual contact,” and the source of infection was conveniently ‘abroad’. Of 13 AIDS cases reported in Calcutta in 1990, two were identified as a woman in prostitution and a “male homosexual”. The others were listed as: “4 foreign students, a well known engineer, five haemophiliacs, and a carpenter.” (*The Telegraph*, 2 Aug 1990)

We wonder if these categories are mutually exclusive? Can’t engineers, haemophiliacs and carpenters not be gay as well? And how is it that the gay person is not referred to by profession?

According to Dr. K.M. Radhakrishnan, Deputy Director of Medical Education, Tamil Nadu, “We thought prostitutes and homosexuals were the ‘high risk groups’. Now we find the HIV virus in heterosexuals too ... Out of 12 documented cases of AIDS in Tamil Nadu, only one is homosexual. Others include lawyers, an engineer, a hotel employee, a teenage drug addict, a

businessman, a haemophiliac and one woman in prostitution.” (*Sunday Mail*, 13.10.91) “Heterosexual promiscuity” (read: mainly women in prostitution) is claimed to be the major route of spread.

Systematic Denial

How accurate is the ICMR’s epidemiology? In an earlier bulletin (Nov. ‘88), the ICMR states that “screening of homosexuals and jail inmates (men) was attempted” in December 1986. How many such people were tested before a conclusion could be reached that heterosexual spread is the dominant pattern in India? Has the ICMR consulted any scientific data on the incidence of bisexual behaviour in India? How many men who have sex with men will call themselves “homosexual” or “gay”? And how many of them are exclusively so? What about lesbians? And women who have sex with both women and men?

In fact, Dr. Prema Ramachandran, Deputy Director of the ICMR, writing in *Swasth Hind* (Dec. 1988), a journal brought out under the ministry of Health and Family Welfare, herself concedes: “The first homosexual male with AIDS – apparently acquired abroad – was reported in December 1986. Attempts to screen homosexuals have not been very successful, probably because homosexuality is a cognizable offence in India. However, so far none of the jail inmates (men) screened in India were sero-positive.”

Does the Deputy Director assume that all gay men in India are also jail inmates? Conversely, do all men in jail engage in high-risk sexual activities with other men? Was the HIV testing of the gay men and jail inmates carried out with their informed consent? How do her observations square with those of her ex-Director General, Dr. Paintal, that homosexuality does not exist in India because there is a law against it? (interview with ABVA, October 1989)

Follow the Leader

The double-speak on homosexuality and AIDS emanating from the apex medical science institute has set the example for doctors and hospitals elsewhere in the country. A quick survey below of some of the conflicting views on the subject makes clear at least one thing: neither the government nor the health authorities have a policy on HIV transmission and same-sex behaviour.

Crime, Punishment and International Conferences

A paper on “Seroprevalence among Crime-related Population: Prisoners and Prostitutes” was presented by Ravinathan Ramanathan from Stanley Medical College, Madras, at the VIth International Conference on AIDS, San Francisco, USA, June 1990. It admitted that “HIV serosurveillance study was attempted to screen the convicts: men homosexuals and jail inmates; women prostitutes confined in vigilance Homes and children in Tamil Nadu. Between April 1986 and November 1989, 3,168 male convicts, 3,133 women prostitutes and 975 juveniles were screened.” The conclusion, “these high risk groups should be screened compulsorily for HIV,” can hardly be called a conclusion, as it was the method employed in carrying out the research. Moreover, according to the ICMR’s official position, none of the jail inmates tested so far and only 6 “homosexual males” have been documented to be HIV positive. Could the call for compulsory screening of these groups be related to the fact that they constitute a “captive” population, easily accessed for research with a little help from the police?

At the Vth International Conference on AIDS, held in Montreal in 1989, Dr I.S.Gilada, Secretary General, Indian Health Organization (IHO), Bombay, presented a poster session entitled “The Hijras: A cult susceptible for AIDS”. The introduction states: “The prevalence of AIDS as related to sexual preferences and patterns of function seems to be a significance that will determine epidemiological action... Adult life of Hijra is patterned as Male Homosexual Prostitute.” The same Dr. Gilada is of the medical opinion that “60 % of all gay men are engaged in prostitution.” (*Bombay Dost*) A similar poster exhibition put together by the IHO was presented at the World Congress on HIV/AIDS held in Bombay in December, 1990. Several photographs zeroed in on the genitalia of hijra citizens, in an effort to show the differences between castrated and non-castrated hijras. In addition, slides of hijras and women in prostitution from Bombay were flashed on the screen before hundreds of delegates, without the use of identity protecting eye bars that are required by international scientific codes. At the same conference, Dr. J.K. Maniar, STD specialist, G.T. Hospital, Bombay, presented close-up photographs of genitalia of women patients from his STD clinic. At a national seminar on Child Abuse and Neglect, held in October 1991 in New Delhi, the IHO publicly displayed the same slides, despite prior objections raised by ABVA.

Are such practices ethical? Is the Indian government aware that some of its citizens are being used in such an obscene manner at international conferences, in violation of all standards of decency? What is the relevance per se of hijras or women in prostitution to AIDS? Could it be that Dr Gilada and Dr Maniar belong to a cult of medical professionals susceptible to sexual perversion, ignorance and peddling of systematic misinformation about gay people, hijras, women in prostitution, and AIDS?

An Imperialist Disease?

Writing in *Bigyan-O-Bigyan Karmi*, a prominent, progressive science journal published from Calcutta, Pachu Rai takes an ingenuous stand. After deftly conflating homosexuality with anal sex, he describes the restricted nature of the anal canal, which makes regular intercourse a traumatic act, as the reason behind the abnormality of homosexuality. In his view, anal sex per se (with or without a condom) is the cause behind “homosexual males” getting AIDS. In the West, he points out, 70 per cent of all the AIDS patients are “homosexuals”. There are about one crore people with AIDS worldwide. West Bengal, with a population of six crores, has only four AIDS cases. India with an 80 crore population has only 29 AIDS patients. Therefore, eureka, can we say that homosexuality has gripped India? No. “How many homosexuals do we meet in our long lives?” he asks. “The path taken by the West, which is the cause of AIDS, is not relevant to our country. Then why such a hue and cry in India over only 29 AIDS cases?” (“Will AIDS Become an Epidemic in India,” *BOB*, Mar-Jun, 1989)

We have earlier in this report exploded the myths behind such an obsessive concern with the anus and the vigorous denials of the existence of homosexuality in India. It is also common to patriotically blame AIDS on some source outside the country. In the United States, Africa is referred to in racist ways as the point of origin, the Cubans blame it on the US, the Soviet Union (until recently) called it a capitalist aberration, in India people talk of imperialist disease and American germ warfare research as the cause. When will Indians admit that the HIV virus does not distinguish between groups and nations when entering the blood stream? As for Pachu Rai’s lament that he has not met any “homosexuals”, as one gay man we spoke to put it, “Thank God for homosexuals!”

Pawns in a Chess Game?

CARC Calling (Sept-Oct 1989), the bulletin of the Centre for AIDS Research and Control (CARC), an ICMR body, published a cover page with three posters and logos, all of which are classic examples of the kind of moralistic education about AIDS that is bound to backfire. The poster on homosexuality shows pawns in a chess game, facing each other front to back, with one pawn falling off the line, presumably as a result of the supposed deathly consequences of his sexual perversion. The official explanation accompanying the poster, provided by Dr. S.M. Bhadkamkar (Joint Director of Health services, Govt. of Maharashtra), says: "This is on homosexuality. It suggests that homosexual contacts are unnatural and very harmful to health; it makes one's life miserable due to a number of diseases he contracts due to his abnormal sexual behaviour."

In response to this poster, Dr. S. Chowdhury, Assistant Professor, Centre for Community Medicine (AIIMS), New Delhi had this to say: "Statements like "unnatural," "very harmful to health," "makes one's life miserable," "abnormal sexual behavior" denote a high degree of value judgement. Such words must therefore be avoided. All homosexual contacts are not "very harmful" e.g. mutual masturbation which is being promoted world over is safe. No study has yet documented that homosexuality makes one's life miserable; on the contrary, there is enough evidence to suggest that fellatio, cunnilingus and anal sex are practiced even by heterosexuals. Is it also "abnormal sexual behaviour'?" (*CARC Calling*, Apr-Jun 1990)

Dr. Indira Kapoor, Director, Family Welfare Training and Research Centre, Govt. of India, also condemns the poster on homosexuality. She quotes Kinsey's studies and also a recent study on the incidence of overt homosexuality in the US and Western Europe, by P.H. Gebhard, which estimates that "the cumulative incidence of overt homosexual experience for the adult female population as a whole is between 10 and 12 per cent." She adds: "It is time, we medical and para-medical people realise the extent of variation in human sexual behaviour. We give our judgement on extremely superficial knowledge we possess. There is a definite need to explore the broader concepts and international thinking in the area of human sexuality. What may be normal for us may also turn out to be "unnatural" and harmful in someone else's view point. "Value judgement" is a very dangerous

area and more so when made without in-depth knowledge on a sensitive and personal issue like human sexuality.” (*CARC Calling*, *ibid*)

Is anyone in the government listening to these sane voices?

What does it Cost to be Human?

On January 5, 1991, the *Hindu* carried an item “To Err is Human, But at what cost?”: “Doctors in Lok Nayak Jai Prakash Narayan (LNJP) Hospital in New Delhi have come to know much to their consternation that a patient operated upon in September last year was actually infected with the (HIV) virus. As he was treated like an ordinary patient and no precautions were taken during the surgery, its possible repercussions have caused much anxiety in the hospital.

“The patient a resident of Bhajanpura was operated upon for Fistula-in-Ano (opening in the anal canal) on September 10. He was discharged on September 12 after the wound healed. However, the patient who has confessed to be a homosexual returned in the last week of November complaining about the recurrence of the disease. The doctors found that the fistula had multiplied with no apparent reason.

“On the hunch of a junior doctor the patient was recommended for ELISA test for the presence of the HIV virus. The test report came in the last week of December proving him to be HIV positive... The patient, who was admitted to the hospital, was discharged without surgery again. He was not told about the infection and asked to report back for the Western Blot test.

“The Directorate General of Health Services (DGHS) guidelines for handling AIDS patients mentions the use of disposable instruments and linen, use of double gloves, masks and gowns for the health care workers... these precautions were not taken... When junior doctors contacted the Medical Superintendent, Dr. Prem Kakkar, regarding the matter... they were told that it was a “professional hazard” ... The Head of Surgery Department, Dr. T. K. Malik, when contacted, said the chances of the patient having AIDS infection at the time of the operation was negligible as the wound had healed. Other doctors, however, contend that the virus might have been in its incubation period when the operation

was performed. But as a precaution, the patients who had undergone operations on September 10 in Operation Theatre-1 will shortly be called for tests.”

The example set by the All India Institute of Medical Sciences (AIIMS) when it denied surgery to an HIV-positive African envoy in January 1990 has been well followed by doctors at LNJP hospital. What is indeed baffling is that despite extensive guidelines laid down on handling AIDS cases, the patient was discharged without surgery once he was discovered to be HIV positive. Interestingly, as the *Hindu* reports, “the doctors say that they have not seen any copy of the DGHS guidelines in the hospital.” Even if doctors are concerned about their own safety rather than the patient’s welfare, *would it not make sense to adopt universal barrier precautions when dealing with blood all throughout the hospital?* Do people with HIV bear some biological mark to justify selective precautions as an AIDS-prevention strategy in a health-care setting?

Mystery of the Spiteful Pamphlet

According to the *Sunday Observer* (April 30, 1989), a mysterious pamphlet arrived at their office, ostensibly by some organization that called itself the Society for Prevention of AIDS in India (SPAID), Delhi. “With neither a phone number or address to its name, nor even a single office bearer listed, this ‘concerned’ pamphlet very meticulously, though not very grammatically, reproduces an article on homosexuality published in the weekly *Sunday* (August 1988) – but only the parts concerning one of the Capital’s noted theatre persons, Barry John of Theatre Action Group (TAG). On the flip side, the pamphlet lists the following points – a) Barry John is homosexual b) He prefers young boys and c) he was initiated into gay life by his drama teachers. Among the other units John is involved with, the pamphlet lists TAG theatre in education unit which services schools and other institutions for children, and the TAG Nukkad Unit which is involved with street working children.

“Addressed to the ‘Drama Critic’, the pamphlet goes on to cite the case of a student who was supposedly having a ‘roaring affair’ with the TAG director; “just stop and think,” the pamphlet says, waving a warning finger, “What if it was your son or your brother or your best friend? You are his patron – you may be paying in part for these activities – is it right?”

The article goes on to condemn the singling out for attack of one person who has, even according to the *Sunday* article, been among the rare ones who are outspoken about their sexual convictions. “Should or can we encourage these amorous assertions of adventurous homosexuality? Should we allow these sexually ‘perverted’ individuals to move scot free and pursue their ‘illegal vocation’ with impunity?” questions the anonymous pamphlet.

Alok Mukhopadhyaya, the executive director of the Voluntary Health Association of India (VHAI) denounced the pamphlet as a canard. Arun Kuckreja, director of the theatre group Ruchika, commented, “We’ve heard of people writing spiteful and vindictive anonymous letters when we were children, and even then we were told to condemn such cowardice. If these people or the society has something specific to say, let them say it openly and in a straightforward manner (as Barry John has done in his interview to *Sunday*). Obviously they have something to hide, or they would have identified themselves and refrained from character assassination. Their word or motive is suspect.”

A social worker, who once worked with John, was reported to say: “If this SPAID is really interested in making people aware about AIDS, let them distribute pamphlets advocating safe sex, health and hygiene and point out the debilitating effects of the disease. Why bring in Barry’s personal convictions? Don’t men go to prostitutes? Let them advocate either legalizing prostitution... or let them urge men to take a vow against becoming their clients.” (“Mystery of the Spiteful Pamphlet,” by Prabha Jagannathan, SO, 30 April 1990)

Government (in) Action

The National AIDS Control Programme which was established in 1985 with the collaboration of the ICMR, has so far organized 14 training courses for physicians and nurses in the clinical management of AIDS cases in different parts of the country. So far, 280 doctors and 140 nurses have been trained. (Annual Report, Ministry of Health and Family Welfare, 1990-91) Lakhs of rupees have already been sunk into “AIDS education”. The government is also in the process of negotiating a huge AIDS grant of 65 million dollars from the WHO-World Bank. Perhaps, this was why Dr. Gariyali, Special Secretary, Health, state of Tamil Nadu, “got things cracking as soon as the first instalment of Rs. 1.5 lakhs

from the Rs 15 lakhs Central grant was released in March.” (*Sunday Mail*, 13 October 1991)

However, all to what effect? Premier medical centres like AIIMS and LNJP hospital, in the heart of the capital, continue to mete out inhuman and unscientific treatment to people with HIV/AIDS. The Central Health Education Bureau (CHEB) is yet to bring out a single advertisement which is not sex-negative. Women in prostitution, professional blood donors, drug users and “homosexuals” continue to be stigmatised as the “vectors of spread” of HIV infection. Is it a mere coincidence that HIV positivity figures of marginalized groups, usually obtained from forcible testing, are widely publicised; whereas other figures, like those relating to “Defence, Border Security Force, police personnel and sailors,” who are also included in the 16 “high risk groups” elaborated by the CHEB, are never publicly announced?

What is the government doing about AIDS and same sex sexual interactions? We strongly oppose any public health strategy which targets gay people as a “high risk group.” However, we also condemn the unwillingness to acknowledge the existence in Indian society of a wide range of sexual interactions, heterosexual, homosexual and bisexual. All of these occur within the “general population”, among and between reasonable people and not on some conjured up margins of society. Men who have sex with men, women who have sex with women exist here, as everywhere else. Moreover, what is this concept of the “general population”? Are gay people, women in prostitution, and professional blood donors to be thought of as somehow existing outside society? Whatever the personal views of medical professionals about these groups, is there any scientific justification for perpetuating this impression?

Dr. Indira Kapoor, Director, Family Welfare Research and Training Centre, Govt. of India, puts it like this: “Knowledge of reproduction and contraception does not by itself complete the knowledge on human sexuality, it only complements or forms a small part of it. Human sexuality is itself a separate speciality of medical science... Unfortunately, training curricula in medical colleges/schools do not lay much stress on this educational aspect.” (*CARC Calling*, April-June 1990)

Gay men and lesbians must not be assumed to be abnormal, lusty, irresponsible people. For instance, ABVA last year met “Anil Kumar”, a gay man whose search for an HIV test was written up in the *Sunday Mail* (25.6.89). He described how the lab technician at AIIMS required him to fill out a form, with particulars such as name, address, phone number, before he would do the test. The result was that Anil did not have his test done at AIIMS where he had gone “out of a sense of social responsibility.” Is he to blame if he is now driven “underground”, without access to an HIV test and safe-sex counselling?

According to Dr. Matthew Verghese, senior orthopaedic surgeon, St Stephen’s Hospital, New Delhi, “there is nothing abnormal about homosexuality.” Nor is there any scientific rationale for violating confidentiality or turning persons with HIV/AIDS away from hospital care. His ethical commitment as a surgeon is well revealed in his statement: “Even if a patient is the worst possible criminal, I will still treat him as a patient.” (interview with ABVA)

In fact, given that homosexuality is no longer considered a physical or mental ailment the world over, shouldn’t the medical establishment be spearheading the campaign for scrapping the sodomy law (section 377) in India? Wouldn’t such a step help rather than hinder AIDS prevention work?

10. CHARTER OF DEMANDS

ABVA urges the Government of India to take cognizance of the following demands and take urgent steps towards their realization:

1. Repeal all discriminatory legislation singling out homosexual acts by consenting adults in private – section 377 of the Indian Penal Code, and the relevant sections of the Army, Navy and Air Force Acts, 1950. In other words, decriminalise sodomy.
2. Enact civil rights legislation to offer gay citizens and other sexual minorities such as hijras the same protections now guaranteed to others on the basis of caste, creed, and colour. Amend the Constitution to include equality before the law on the basis of “sex” and “sexual orientation.”
3. Recognize the right to privacy as a fundamental part of the citizen’s right to life and liberty, including the right to his or her sexual orientation.
4. Reform police policy (for example, by calling a meeting of senior police officers, including all Station House Officers (SHOs)), to put an end to the harassment of gay people at the hands of the police and public. Police authorities should take the initiative to make available information on all local public nuisance laws used on gay people in public places, and the relevant procedures and penalties specified therein. They should also make public the numbers of arrests, prosecutions and convictions of gay people under various laws along with the period of sentence, amount of fine and age of the offenders.
5. Establish a Commission to document human rights violations of gay people, such as violence and blackmail directed at gay men and lesbians, as well as atrocities within marriage on lesbians who may be married to men.
6. Redefine the offence of rape in the Indian Penal Code to include all coercive sexual acts rather than only vaginal penetration. Rape laws should be made applicable to both men and women, irrespective of whether they are gay, nongay, married or single.

7. Have the Press Council of India issue guidelines for respectful, sensitive and representative reporting on gay men and lesbians and issues around homosexuality.
8. Have the Medical Council of India (MCI) issue guidelines to the effect that refusal to treat a person on the basis of his/her sexual orientation is a cause for censure on grounds of professional misconduct. Bring medical curricula in schools and medical colleges in line with the latest scientific theories of homosexuality.
9. Consider unethical any reckless and uncalled for sex-change surgery without informed consent and counselling. Counselling should be made available to help a person deal with the normality of his/her gender incongruities. Any irresponsible experimentation by medical professionals in this area should be made punishable by law.
10. Institute a massive, nation-wide survey of sexual behaviour in our society.
11. Ensure that everyone receives judgement-free health education related to sexuality, homosexuality, Sexually Transmitted Diseases (STDs), HIV testing, AIDS and condom use. All AIDS-related education should explicitly acknowledge sexual interaction between people of the same sex.
12. Delete the clauses in the AIDS (Prevention) Bill, 1989, (which lies pending before a Joint Parliamentary Committee) that provide for coercive testing, contact tracing, and isolation. Include explicit confidentiality on sexual orientation and anti-discrimination measures for the protection of people with HIV/AIDS.
13. Make available anonymous HIV testing facilities for all.
14. Alter the heterosexist bias in education, from school onwards, by presenting positive images and role models of gay men and lesbians and of homosexuality as a viable, healthy alternative lifestyle.
15. Amend the Special Marriages Act to allow for marriages between people of the same sex (or between people who may be inter-sexed, or have undergone

sex-change surgery, and any others). All consequential legal benefits of marriage should extend to gay marriages as well, including the right to adopt children, to execute a partner's will, to inherit, etc. Same-sex couples should also be entitled to the legal benefits that accrue to their heterosexual counterparts of common law marriages.

No presumption as to fitness or unfitness for custody of a child or visitation rights shall arise based on sexual orientation of either parent in such a situation.

16. Alternatively, legally recognize and encourage friendship agreements between single people of the same sex as a valid way of organizing family life.

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